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ACTS

PASSED BY THE

GENERAL ASSEMBLY,

OF

THE TERRITORY OF

MISSOURI;

IN

DECEMBER AND JANUARY

ONE THOUSAND EIGHT HUNDRED AND

THIRTEEN AND FOURTEEN.

ST. LOUIS, (M. T.)
PRINTED BY JOSEPH CHARLESS,
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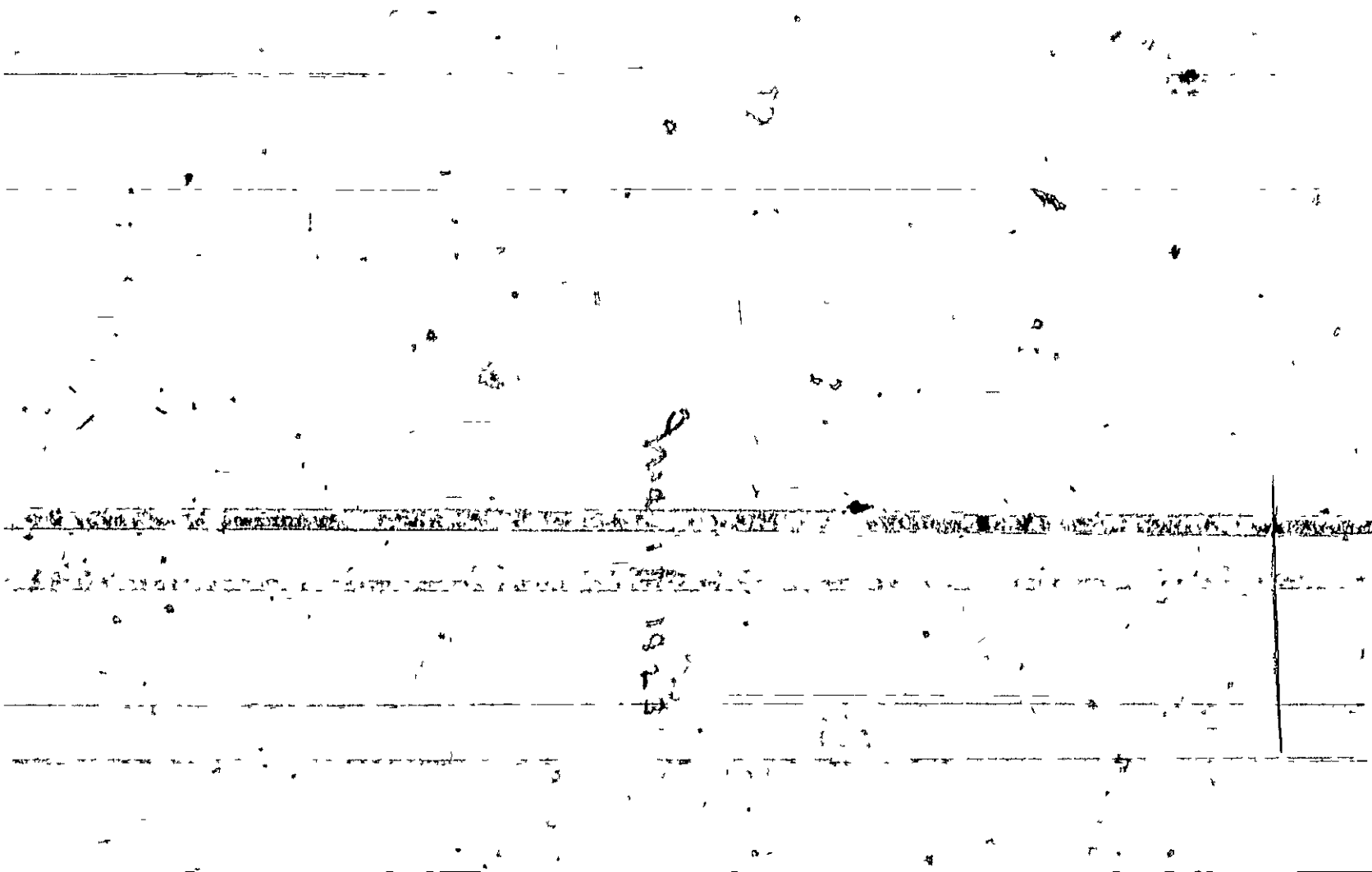
1814.



AN ACT

Supplementary to the act establishing courts of common pleas and for other purposes.

Preamble.

Whereas it is doubtful, whether under the exifting laws, the feveral courts of common pleas can hold fpecial feffions for the purpofe of difcharging all the duties heretofore required of the diftrict or county auditors, in this territory, to obviate which,

Special feffions for fettling accounts.

BE *it enacted by the General Aſſembly of the territory of Miſſouri*, That the feveral courts of common in this territory fhall have power to hold fpecial feffions whenever it may be neceffary for them to difcharge all and fingular the duties heretofore required of the feveral diftrict or county auditors in this territory, and now required to be performed by faid courts of common pleas.

This act fhall commence and be in force from and after the paffage thereof.

GEO. BULLITT,
Speaker of the Houſe of Repreſentatives.
S. HAMMOND,
Preſident of the Legiſlative Council.
APPROVED, DECEMBER 29, 1813.
WILLIAM CLARK,
Governor of Miſſouri Territory.

AN ACT

Regulating the rates of toll for grinding.

Be it enacted by the General Assembly of the territory of Missouri, That the owner or occupier of every water or grist mill within this territory shall be entitled to receive the one eighth part of all wheat, rye or buckwheat when ground and boulted, and the one eighth part of all other grain when ground into meal. And the owner or occupier of any horse mill shall in like manner receive the one fifth part of all wheat rye or buckwheat, when ground and boulted or the one sixth part when ground only—and the one fourth part of all other grain when ground into meal, when the owner of the mill finds the team for grinding the same; and when the team for grinding shall be furnished by the owner or owners of the grain, and with the consent of the owner or owners of the mill, the toll shall be the same as is allowed to the owners or occupiers of water mills, and no more.

Rates of toll.

Sec. 2. *And be it further enacted*, That it shall be the duty of each and every owner or occupier of any water mill or horse mill to keep, set up, at the most public place at his mill at least three months in every year, a copy of the rates of tolls allowed by law for grinding, designating the quantity of toll for each specie of grain.

To be set up

Sec. 3 *And be it further enacted*, That the owner or occupier of every mill afore-

ſaid ſhall be accountable for the ſafe keeping of all grain received in ſaid mill for the purpoſe of being ground therein, and ſhall when called for, deliver the ſame; or when ground and boulted (as the caſe may be) with the bags or caſks in which the grain was delivered, to the owner his or her ſervant or agent: *Provided*, That each bag or caſk left as aforeſaid, be diſtinctly marked with the initial letters of the owners name; *Provided alſo*, That nothing herein contained ſhall be ſo conſtrued as to charge the owner or occupier of any mill to make him or them accountable for the loſs of grain, bags or caſks that ſhall happen by any accident without the fault or neglect of ſuch owner occupier or miller.

Millers account for ſafe keeping of grain.

Caſks to be marked.

Sec. 4. *And be it further enacted*, That if the owners or occupiers of any mill, their repreſentatives, agents or millers ſhall take a greater proportionate quantity of toll than herein-before authoriſed or ſhall not ſufficiently grind, or grind and boult in due turn, all merchantable grain brought to their mill, agreeably to the direction of the owner, unleſs ſaid mill is out of repair or unleſs prevented by draught or high water, every ſuch perſon ſo offending ſhall forfeit and pay to the party injured a ſum not exceeding five dollars with coſts of ſuit to be recovered before any juſtice of the peace in the township where the offence is committed by an action founded on this ſtatute: *Provided nevertheleſs*, That any owner of a mill may grind his or her own grain at any time.

Penalty for taking too much toll.

This act shall take effect and be in force from and after the first day of May next.

GEO. BULLITT,
Speaker of the House of Representatives.
S. HAMMOND,
President of the Legislative Council.
APPROVED, DECEMBER 30, 1813.
WILLIAM CLARK,
Governor of Missouri Territory.

AN ACT

Establishing counties and county lines.

BE it enacted by the General Assembly of the territory of Missouri, That all that part of territory beginning at the mouth of the river Missouri, and bounded as follows to wit, beginning at the first chute of the river Miss with the river Mississippi; thence up the Missouri river in the main channel of the same to a point in the said river opposite to the mouth of the Gasconade river; thence in a direct line to cross the river Osage, at the distance of thirty miles from its mouth; thence down the said Missouri river to the Mississippi river; thence down said river Mississippi in the main channel of the same to the place of beginning, shall compose a county and be called and known by the name of the county of St. Charles: *And be it enacted*, That all the territory bordering on the Missouri river, and the county of St.

Boundaries.

St. Charles.

Charles, in the recefs of the General Assembly, it fhall be the duty of the Governor for the time being by proclamation to annex the fame to the faid county—and the territory fo annexed fhall, to all intents and purpofes be within the limits and compofe a part of the county of St. Charles.

All that portion of territory bounded north by the fouth line of the county of St. Charles, eaft by the main channel of the river Miffiffippi, fouth by a line to commence in the main channel of the Miffiffippi immediately oppofite to the upper line of a tract of land owned by Auguſte Chouteau which is about half way between the mouths of the Plattin and Joachim rivers; thence running in a direct line to a point on the dividing ridge between thofe waters where Wrights road falls into the road leading from the town of Herculaneum to the Mine a Burton; thence along faid road to a point thereon immediately oppofite a noted fpring called the 'Dripping Spring' which fpring is fituated about two hundred yards to the fouth of faid road; thence on a direct courfe to the mouth of Mineral Fork of Grand River; thence fuch a courfe as fhall leave all the perfons now ſettled in that ſettlement, usually known by the name of the Richwood ſettlement to the fouth of ſaid courfe or line and in the county of Waſhington; thence fouth weſt to the weſtern boundary of line the Oſage purchaſe, thence northwardly on ſaid line to the river Miſſouri, thence down ſaid

St. Louis.

river Missouri in the main channel of the same to the south west corner of the county of St. Charles shall compose one county and shall be called and known by the name of the county of St. Louis.

St. Genevieve. All that portion of the territory bounded northwardly by the south line of the county of St Louis, east by the main channel of the river Mississippi; south by a line to commence on the Mississippi river immediately opposite the mouth of Apple Creek; thence up Apple Creek to its main source; thence due west to the dividing ridge between Caller and St. Francis rivers; thence in a direct line to the head of twelve mile Creek, down said creek to its junction with the river St. Francis; thence due west to Black river; thence northwardly to the most southern source of Flat river; thence down Flat river to its junction with Grand river; thence down Grand river to the south line of the county of St. Louis, shall compose a county and shall be called and known by the name of the county of St. Genevieve.

Washington. All that portion of the territory bounded north by the south line of the western part of the county of St. Genevieve; south by a line to run on or on Black river; where the south line of the county of St. Genevieve strikes the same; thence west to the western boundary line of the Osage purchase thence northwardly on said line to the south line of the county of St. Louis, shall compose

county and be called and known by the name of the county of Washington.

All that portion of the territory bounded north by the south lines of the counties of St. Genevieve and Washington; east by the main channel of the Miſſiſippi river; ſouth by a line commencing in the Miſſiſippi river at the head of Tywappity bottom at the upper end of a tract of land where Lucas Brady now lives; thence weſt to the ſouth ſide of the Big ſwamp; thence a direct line to the Shawnee village on Caſtor river; thence due weſt to the weſtern boundary line of the Oſage purchaſe; thence northwardly on ſaid line to the ſouth line of the county of Waſhington, ſhall compoſe a county and ſhall be called and known by the name of the county of Cape Girardeau. Cape Girardeau.

All that portion of the territory bounded north by the ſouth line of the county of Cape Girardeau, eaſt by the main channel of the Miſſiſippi river; ſouth by a line commencing in Red river oppoſite the lower end of the iſland laid down in the navigator as number nineteen; thence a direct line to ſtrike White river at the mouth of little Red river, thence up Red river to the weſtern boundary of the Oſage purchaſe; thence northwardly on ſaid line to the ſouth line of the county of Cape Girardeau ſhall compoſe a county, and be called and known by the name of the county of New Madrid. New Madrid.

All that portion of the territory bounded

Arkansas.

north by the south line of the county of New Madrid; east by the main channel of the Mississippi river; south by the thirty-third degree of north latitude, or northern boundary line of the state of Louisiana, westwardly by the western boundary line of the Osage purchase and by a line to commence upon the river Arkansas, where the boundary line of the Osage purchase intersects the same; thence in a strait line to the main source of the Wachita; thence south to the northern boundary line of the state of Louisiana, or thirty third degree of north latitude, shall compoose a county, and be called and known by the name of the county of Arkansas.

Officers of late districts or counties to act as if no alteration had been made.

Sec 2. *And be it further enacted*, That it shall and may be lawful for the judges, justices, clerks, sheriffs, coroners, constables and collectors, in and for the districts or counties heretofore established through the territory to do and perform all the duties which they or any of them may be required to do in their respective districts or counties as heretofore established as though no alteration had taken place in the district or county lines. And all suits or actions which may be depending in the respective districts or counties shall be tried and determined in the same manner, as tho' no alteration had taken place—and the said pleas, actions and suits both civil and criminal which shall or may be depending or commenced in the said limits of the old districts or counties heretofore established shall be prosecuted, continued, tried, determined and carried into

Suits heretofore commenced.

nal judgment and execution. And all taxes, fees forfeitures, fines, and judgments which shall be obtained or which may then be due to the former districts or counties or may be obtained or come due in consequence of suits, process, taxes or proceedings commenced before the division of districts or counties takes effect shall be collected by the officers of the districts or counties heretofore existing in the same manner as if no alteration had taken place or this act had never been passed, any thing in this law to the contrary notwithstanding.

Taxes, fees, fines, judgments &c.

Sec. 3. *And be it further enacted*, That all suits judgments, pleas or proceedings whether of a civil or a criminal nature, which were commenced prior to, and pending in the district or county of Arkansas at the time of annexing the same to the county of New Madrid by the proclamation of the Governor be and the same are hereby declared to to be revived and not discontinued; and the said suits, judgments, pleas or proceedings of whatever nature shall have day and be cognizable in the first court of common pleas after the taking effect of this act—and may and shall be proceeded in and brought to final judgment and execution in the county of Arkansas hereby established or erected in the same manner as though the proclamation of the Governor had never issued.

Suits formerly commenced in Arkansas revived,

Sec. 4. This act shall take effect and be in force from after the passage thereof.

GEO. BULLITT.
Speaker of the House of Representatives.
S. HAMMOND.
President of the Legislative Council.

APPROVED, DECEMBER 31, 1815.
WILLIAM CLARK,
Governor of Missouri Territory.

AN ACT

Supplementary to an act to regulate the mode of taking the enumeration of free white male inhabitants.

Preamble.

Whereas, many sheriffs in the territory have failed to take and return according to law, the enumeration of free white male inhabitants in their respective counties: and whereas the time limited by law for taking the same has elapsed, and a due apportionment of representatives cannot be made without such enumeration and return, therefore,

Sheriffs to take enumeration before May next.

BE it enacted by the General Assembly of the territory of Missouri, That it shall and may be lawful, and it is hereby made the duty of each and every sheriff throughout the territory to take the enumeration of all free white male inhabitants of their respective counties and to proceed to take the said enumeration according to the law enti-

fied, an act to regulate the mode of taking the enumeration of free white, male inhabitants at any time before the first day of May next, and each and every sheriff taking the enumeration as aforesaid shall, within thirty days after the same is completed, make a due and full return under oath, to the governor of the territory for the time being and not to the clerk of the court, as is provided in the act aforesaid.

Sec. 2. *And be it further enacted*, That each and every sheriff taking the enumeration under this act, shall have the same time and receive the same compensation as is provided in the act to which this act is a supplement. His compensation.

Sec. 3 And whereas the general assembly will not be sitting to apportion the representatives from each county on said returns being made, *Be it further enacted*, That on the returns of said enumeration to the governor of the territory, it shall be the duty of the said governor, for the time being, to proceed to apportion according to law, the representatives from each county as the general assembly could do, were they then in session, and to issue his proclamation or writs of election to the sheriffs of each county, according to the law entitled "An act to regulate elections," naming in each writ the number of representatives to be chosen in each county. Governor to apportion representation.

Sec. 4. And whereas the sheriffs and

clerks have failed to take said enumeration and make said returns by reason of not having a copy of the law, to which this act is a supplement, and whereas by that law they are subject to a fine for said failure, *Be it therefore enacted*, That each and every sheriff and clerk as aforesaid subject to fine shall be and they are hereby discharged and released from the same.

Sheriffs released from fine.

Sec. 5. *And be it further enacted*, That the apportionment to be made of representatives shall be one for every five hundred free white male inhabitants through the territory, of whatever age they may be so returned by said census.

1 representative for every 500 free, white, male inhabitants.

Sec. 6. *And be it further enacted*, That it shall be the duty of the governor to forward immediately to each sheriff through the territory, a copy of this act, and the act to which this is a supplement.

Sec. 7. This act shall take effect and be in force from and after the passage thereof.

GEO. BULLITT,
Speaker of the House of Representatives.

S. HAMMOND,
President of the Legislative Council.

APPROVED, JANUARY 18, 1814.

WILLIAM CLARK,
Governor of Missouri Territory.

AN ACT

Respecting justices of the peace in the county of Washington.

BE it enacted by the General Assembly of the territory of Missouri, That any justice of the peace in the county of Washington who acted as such while it was included within the counties of St. Genevieve and St. Louis, and is appointed as a justice of the peace for the county of Washington shall have full power to issue execution on any judgment he or they may have on his or their docket or dockets remaining unsatisfied, give certified copies of any judgment by default with notification and shall proceed to finish and complete any business that may be standing on his or their docket or dockets.

Business formerly commenced in the limits of present county of Washington—

How to be completed.

Sec. 2 *And be it further enacted*, That any justice of the peace within the county of Washington who acted as such while it was included in the county of St. Genevieve or St. Louis and who is not appointed a justice of the peace for the county of Washington shall deliver to some justice of the peace of his township all papers, documents and dockets which may belong or relate to his office of justice of the peace whole, safe and undefaced—and the justice to whom they are delivered shall receive the same and give a receipt therefor; whose duty it shall be to proceed to issue execution on any judgment that may remain unsatisfied as the law directs, and do

Proceedings on the unfinished business of a justice in the case of non appointment.

and perform any thing the law may require for the completion of said business And the said justice shall be allowed his lawful fees for any services he may do, as in other cases and shall deliver or pay over any fees or money he may receive belonging to the justice from whom he received the papers, documents and dockets—and when the business is finally settled the said justice shall deliver the said papers, documents and dockets whole, safe and undefaced to the clerk of the county whose duty it shall be to receive and receipt for the same and keep the said papers, documents and dockets as a record of said county.

This act shall be in force from and after the passage thereof.

GEO. BULLITT.
Speaker of the House of Representatives.

S. HAMMOND.
President of the Legislative Council.

APPROVED, JANUARY 3, 1814.

WILLIAM CLARK.
Governor of the Missouri Territory.

AN ACT

To regulate Elections.

General elections 1st monday in August 1814 and every 2d year after.

BE it enacted by the *General Assembly of the territory of Missouri*, That all General Elections hereafter to be held for representatives to the General Assembly and for delegate to congress shall be held on the

firſt monday in Auguſt eighteen hundred and fourteen, and on the firſt monday of Auguſt every ſecond year thereafter, and be conducted in the manner hereinafter preſcribed by this act.

Townſhips to be election diſtricts.

Sec 2. *And be it further enacted*, That each townſhip now or hereafter to be laid off in the ſeveral counties within this territory ſhall compoſe an election diſtrict, and the courts of common pleas in their reſpective counties are hereby authoriſed and required at their term next preceding the day of election, to name a certain houſe in each townſhip as nearly central to the inhabitants as circumſtances and convenience will admit of, at which the electors ſhall meet when and as often as they may be required to vote for the officers hereby authoriſed to be elected: *Provided* that all elections held in the townſhips in which the ſeats of juſtice are eſtabliſhed ſhall be held at the court-houſe in ſaid townſhips.

Courts to appoint the place.

Notice of time and places to be given.

Sec. 3. *And be it further enacted*, That it ſhall be the duty of the ſheriff or coroner (if there be no ſheriffs) of each county and he is hereby authoriſed and required fifteen days at leaſt before the holding of any general election, or ten days at leaſt before the holding of any ſpecial election to give public notice by proclamation throughout the county of the time and ſeveral places of holding ſuch elections, and the number of officers at that time to be choſen, a copy of

which shall be set up at each of the places where the elections are appointed to be holden and at two others or more of the most public places in each township.

Polls kept open from 8 A. M. till 6 P. M.

Sec. 4. *And be it further enacted*, That at all elections to be holden under this act the poll shall be opened at the hour of eight in the morning and close at the hour of six in the afternoon of the same day.

Judges and clerks of election,

Sec. 5. *And be it further enacted*, That the judges of the several courts of common pleas within this territory shall at their term next preceeding the election appoint three discreet house holders in each township within their respective counties, having the qualifications of electors to act as judges of the elections within their townships and the judges thus appointed shall choose two other persons having the like qualifications to act as clerks thereof—and the said judges so appointed shall be and continue judges of all elections to be holden within their respective townships until others shall be appointed as herein before directed.

Vacancies in sheriff's office how filled,

Sec. 6. *And be it further enacted*, That if any person appointed to act as judge as aforesaid shall neglect or refuse to be sworn or affirmed to act in such capacity the place of such person shall be filled by any one of the Justices of the Peace of the township where such vacancy may happen—and if there is no justice present to act as judge, the vacancy shall be filled by nomination

made by the other judge or judges of the election—and if there is no judge or judges to fill the vacancy by nomination as aforesaid then such vacancy shall be filled by the votes of such qualified electors as may be then present, and the *justice* or *justices* person or persons so nominated or elected to fill such vacancy shall and are hereby vested with the same powers as if appointed by the *judges* of the court as aforesaid. And if any clerk as aforesaid shall neglect or refuse to act or to be sworn or affirmed in such capacity, the place of such clerk shall be filled in the manner prescribed in the proceding section.

Oaths of election officers.

Sec 7 *And be it further enacted* That previous to any votes being received the judges and clerks shall severally take an oath or affirmation in the following form "I, A B, do solemnly swear or affirm, as the case may be that I will perform the duties of a *judge* of the election, or clerk, as the case may be, according to law, and to the best of my abilities, and that I will studiously endeavor to prevent fraud, deceit and abuse in conducting the same.

Cert. of oaths to be prefixed to the poll book.

Sec 8 *And be it further enacted*, That the person or persons who shall administer the said oaths or affirmations shall cause an entry thereof to be prefixed to the poll books, in words to the following effect—I do hereby certify that judges and clerks of the election held in the township of in the county of on the day of

in the year one thousand eight hundred and were severally sworn as the law directs previously to entering on the duties of their respective offices which certificate shall be subscribed by the person administering the said oaths or affirmations and be considered as a part of the record of the elections.

Judges of election may administer the oath to each other.

Sec. 9. *And be it further enacted*, That in case there shall be no justice of the peace or judge present at the opening of the election, or in case such justice be appointed a judge or clerk, it shall be lawful for the judges of the election and they are hereby authorised and empowered to administer the oaths or affirmations to each other and to the clerks.

Poll books furnished by clerks,

Sec. 10. *And be it further enacted*, That each of the clerks shall furnish himself with a poll book which shall be headed with words importing that it is a poll book of the election held in the township of in the county of on the day of in the year one thousand eight hundred and and in which book they shall write at full length the name of each and every voter at such election and in a seperate column the name of each and every person whose vote shall be rejected by said judges,

Poles, how taken,

Qualifications of electors.

Sec. 11, *And be it further enacted*, That all free white male citizens of the United States, above the age of twenty one years,

who have reſided in this territory twelve months preceding any election, and who ſh ll have paid a territorial or county tax aſſeſſed at leaſt ſix months previous to ſaid election, and who are not diſqualified ſhall be entitled to vote for repreſentatives to the general aſſembly and for delegate to congreſs.

Electors may be examined on oath as to their qualifications.

Sec. 12. *And be it further enacted.* That when objections are made to an elector, and in all other caſes where the qualifications of the perſon to vote is a fact onknown to either of the judges they ſhall have power to examine ſuch perſon on oath or affirmation touching his qualification as an elector, agreeable to the qualifications in the preceding ſection which oath or affirmation either of the judges is hereby authoriſed to adminiſter.

Arrangement of poll books.

Sec. 13 *And be it further enacted.* That at the cloſe of the polls the names of the electors contained upon the poll book ſhall be counted and ſet down in writing at the foot of the c lumn in which they are entered and the number of votes received caſt up and arranged and the number given to each perſon voted for set down in writing at the foot of the poll book and ſhall be ſigned by the judges and counterſigned by the clerks and cause the ſame to be publickly proclaimed.

One of the poll books to be sent to clerk's office.

Sec. 14. *And be it further enacted.* That after cloſing the poll in manner aforesaid the judges of the election ſhall enclose and ſeal one of

the poll books aforesaid, directed to the clerk of the county where the returns is to be made and the packet thus sealed and directed shall be conveyed by one of the judges or clerks of the election, to be determined by lots if they cannot otherwise agree to the clerk of the county at his office within ten days from the close of the polls and the other poll book shall be deposited with the remaining judge or judges of the election there to remain for the use of those who may wish to inspect the same. And if any judge or clerk of the election on whom the lot may fall to carry said poll book to the clerk shall neglect or refuse to perform such service, according to the true intent and meaning of this act he shall be liable to the penalty of one hundred dollars to be recovered by action of debt in the name of the territory, or of any person who may sue for the same before any court of record proper to try the same—one half of said fine shall go to the territory and the other half to the person so suing.

Penalty for neglect,

Sec. 15. *And be it further enacted*, That on or before the fifteenth day after the day of election or sooner in case all the returns be made the clerk of the court of common pleas of the county taking to his assistance two judges of the court of common pleas or justices of the peace or one of each shall proceed to open the several returns which have been made to his office and make abstracts of the votes in the following man-

The clerk of the court with two judges or justices to compare the polls,

ner—the abſtracts of the votes for delegate to congreſs ſhall be on one ſheet, and the abſtracts of votes for repreſentatives ſhall be on another ſheet ſeperate from the ſheet on which the abſtract of votes for delegate is contained and being ſigned by the judges or juſtices and clerk or any two of them ſhall be depoſited in the clerk's office and a copy thereof certified under the official ſeal of ſuch clerk ſhall be tranſmitted by expreſs to the governor of the territory or to the perſon exerciſing the government thereof. And it ſhall be the duty of the governor or perſon exerciſing the government for the time being, within thirty days after the expiration of the time herein before allowed for making county returns to caſt up and arrange the votes from the ſeveral counties or ſuch of them as may have made returns for each perſon voted for as a delegate to congreſs and ſhall immediately thereafter iſſue his proclamation declaring the perſon having the number of votes to be duly elected highеſt as delegate to repreſent this territory in the houſe of repreſentatives of the U. States, and to grant a certificate thereof under the ſeal of the territory to the perſon ſo elected—and it ſhall moreover be the duty of the clerk of the county to furniſh each repreſentative with a certificate of his election under the official ſeal of the ſaid clerk.

Returns to be made to the Governor,

His duties,

Clerk's further duties,

Sec. 16 *And be it further enacted*, That no perſon ſhall, on any occaſion or pretence be admitted to vote at any election for the purpoſes aforeſaid in any townſhip

Electors voting out of their county or townſhip.

except that in which he usually resides; *Provided nevertheless* That it shall and may be lawful for any person qualified to vote in any township or any county of the territory of which he is not resident for a delegate to congress or in any township of the county of which he is resident for a member of the house of representatives, he first making due oath or affirmation before the judges of the election that he has not already voted at any other place of election or has not been refused for want of due qualifications to vote as an elector and moreover that he will not vote at any other place for that election—and any person so offending shall be deemed guilty of perjury and shall be punished accordingly.

Sec. 17. *And be it further enacted*, That if any judge of any election or clerk or any other officer concerned in conducting the election shall neglect, improperly delay or refuse to perform any of the duties or services required by this act having undertaken so to do or shall knowingly admit any person to vote not qualified according to law or shall be guilty of corruption, partiality or manifest misbehavior in any matter or thing appertaining to said election, or shall unduly attempt to influence the election, or shall knowingly receive any unproper vote or votes, or shall knowingly receive and count more than one vote from one person in the same election to one office, he or they so offending shall forfeit and pay each to the territory the sum of two hundred dollars, to be recovered in any court of recording the terri-

Improper conduct of of.

tory, in the name and for the use of the territory in an action of debt, with costs of suit; or at the suit of any person who may see proper to sue for the same, one half for the use of the [illegible], and the other half for the use of the territory.

Penalty.

Sec. 18. *And be it further enacted*, That for the preservation of good order as well as for the security of the election officers from insult and personal abuse it shall and is hereby made the duty of the constable of each township to attend at all elections within their townships; and the judges are hereby authorised and empowered to impose a fine on any person or persons who shall conduct in a riotous or disorderly manner and persist in such conduct after being warned of the consequences, in any sum not exceeding twenty dollars, and on refusal to pay the fine to commit to the common jail of the county for any time not exceeding twenty days or until the same be paid; and the constable to whom the order is directed, and the jailor of said county are hereby required to execute said order and receive said person or persons so committed as though it had been issued or delivered by a magistrate in due form of law.

Constable to attend the elections to prevent disorders.

Punishment for riotous conduct.

Sec. 19. *And be it further enacted*, That whenever there shall be a tie, or an equal and highest number of votes for any two candidates to fill the office or place of delegate to Congress, it shall be the duty of the governor to issue his proclamation ordering

In case of a tie another election to be ordered.

the different sheriffs or coroners throughout the territory to cause another election to be held conformably to the provisions of this act to fill such place or office. And whenever there shall be a tie or an equal number of votes given for any two candidates having the highest number of votes other than those duly elected to fill the office or place of a member to the house of representatives, it shall be the duty of the clerk, judges or judge and sheriff casting up the number of votes or a majority of them to issue their order to the sheriff or coroner of the county where the same may occur directing him to issue his proclamation for the purpose of holding an election agreeably to the provisions of this act in cases of a special election for filling such office or place.

For delegate.

For member of H. Rep's.

Sec 20. *And be it further enacted*, That when any vacancy shall happen in the office of delegate to Congress, or in the house of representatives by death, resignation or removal from office it shall be the duty of the governor of the territory to issue his writ or writs of election to the sheriff or sheriffs, coroner or coroners as aforesaid of the proper county or counties, commanding him or them, on a day certain to order an election to supply such vacancy, and which said election shall be conducted in the same manner, and under the same regulations as is herein before prescribed for general elections.

Vacancy in office of delegate how supplied.

Sec. 21. *And be it further enacted*, That if any candidate of the proper county chooses to contest the validity of any election or the

Contested elections.

right of any person proclaimed duly elected to hold his seat in the house of representatives such person shall give notice thereof in writing to the person whose election he intends to contest or leave a written notice thereof at the house where such person last resided within twenty days after the return of the election to the clerk of the court as aforesaid expressing the points on which the same will be contested and the names of the two justices of the peace who will attend at the taking of the depositions, and when and where they will attend to take the same; *Provided*, That the time fixed upon for taking such depositions shall not exceed forty days from the day of election; and the said justices or either of them shall have power, and they are hereby authorised and required to issue subpoenas to all persons whose testimony may be required by either of the parties commanding such persons to appear and give testimony at the time and place therein mentioned under the penalty of fifty dollars to be levied on each and every delinquent who hath been duly served with process. And the said justices when met shall hear and certify under seal all testimony relative to such contested election to the speaker of the house of representatives. No testimony shall be received by the justices on the part of the person contesting the election which does not relate to the point specified in the notice, a copy of which notice attested by the person who delivers or serves the same shall be delivered to the

Notice.

Two Justices to take depositions.

And transmit to speaker of H. Rep's.

Points of contest to be specified in notice.

said justices, and by them transmitted to the speaker of the house of representatives with the other documents.

Special elections.

Sec. 22. *And be it further enacted*, That in all cases where a special election shall be ordered by the governor to fill a vacancy by death, resignation or removal from office, should there be no judges of election in the respective counties or townships it shall be the duty of the sheriff or coroner as aforesaid to appoint the judges of election in each township who shall perform the same duties as if they had been appointed by the courts of common pleas in the case of general elections.

Appointment of Judges.

Electors to vote by ballot.

Sec. 23 *And be it further enacted*, That at all elections to be held in pursuance of this act the electors shall vote by *ballot*; and the judges clerks, constables and electors shall be free from arrest in all civil matters while going to, attending and returning home from any election held in pursuance of this law.

Privilged from arrests.

Sec. 24 *And be it further enacted*, That there shall be allowed to each person making or carrying the returns of the polls from each township to the clerk of the court of each county the sum of five cents a mile for going and returning from the place of election to the clerk's office, where such return is to be made, which shall be in full for his trouble and the clerk to whom the return is made shall grant to each person making a return a

certificate of his services, and the distance he had to travel in making the same, which certificate shall be an evidence of debt due from the county and be drawn from the county treasury as other county debts are paid. And there shall be allowed to each person carrying the return from each county to the Governor of the territory the sum of ten cents for each mile he shall travel in going from the clerks office of the county from which the returns are made to the office of the Governor; and the Governor of the territory for the time being shall give to each person a certificate of his services and the distance he has travelled in making said returns which said certificate shall be paid like other debts out of the territorial treasury. And the courts of common pleas for each county shall moreover allow to each person who has acted as clerk of the election in any township such sum as they may deem reasonable for stationary furnished by him for said election purposes.

Sec. 25. *And be it further enacted*, That this act shall take effect and be in force from and after the passage thereof.

GEO. BULLITT,
Speaker of the House of Representatives.

S. HAMMOND,
President of the Legislative Council.

APPROVED, JANUARY 4, 1814.

WILLIAM CLARK,
Governor of Missouri Territory.

AN ACT

For the prevention of vice and immorality.

BE *it enacted by the General Assembly of the territory of Missouri*, That if any person or persons on the Lord's day commonly called sabbath or sunday shall be found labouring or shall compel his, her or their apprentice or apprentices, servant or servants, slave or slaves or the apprentice or apprentices, servant or servants, slave or slaves, of any other person or persons to labour or perform other services, unless it be the ordinary household offices of daily necessity or other work of necessity or charity, he, she or they so offending being thereof duly convicted shall forfeit and pay the sum of one dollar for every offence, deeming every apprentice, servant or slave so compelled as constituting a distinct offence: *Provided*, That no persons who is a member of any religious society who observes as a sabbath any other day of the week than sunday or the christian sabbath shall be liable to the penalty hereby incurred for a breach of the sabbath so that they observe one day in seven agreeable to the regulations aforesaid, saving to ferry men the right of crossing passengers.

No labour to be performed on Sabbath.

Penalty.

Exceptions.

Sec. 2. *And be it further enacted*, That if any person or persons shall willully, maliciously or contemptuously disquiet or disturb any congregation assembled in any church, chapel, meeting-house or other place

Disturbing religious congregations.

for religious worship, by profanely swearing using indecent gestures, threating language or commit violence of any kind to or upon any person or persons then and there assembled for the purpose aforesaid, he, she or they so offending herein shall be fined in any sum not exceeding one hundred dollars, nor less than one dollar at the discretion of the court before whom the conviction is had. Penalty.

Sec. 3. *And be it further enacted*, That if any person or persons shall set up or keep any table or tables commonly called A. B. C, Faro Bank, E. O Roulette, Equality or any other kind of gaming table or tables at which any game of chance shall be played for money or property; or shall keep any bank as aforesaid, and induce or permit any person or persons to bet against said bank any person or persons so offending being thereof convicted shall be fined in any sum not exceeding five hundred dollars nor less than fifty dollars at the discretion of the court before whom the conviction is had, and the person so convicted shall stand committed till the sentence of the court be complied with. Tables on which games of chance are play'd—forbidden. Penalty.

Sec. 4. *And be it further enacted*, That if any person or persons shall at any time win, lose or bet in money, goods or chattles on any of the games played at the tables named in the third section of this act, or at any kind of gambling table or device whatever every such person offending shall forfeit and Penalty for playing at card tables.

pay the sum of five dollars, and the value of the money, goods or chattels so won lost or betas aforesaid.

Bonds and other writings void when given for gaming consideration

Sec. 5. *And be it further enacted.* That all contracts, promises, notes, bills, bonds, and other assurances, and all mortgages deeds or conveyances made or entered into by any person or persons whomsoever in which the consideration for the same shall be for any money, goods or chattles won on any of the aforesaid tables, banks or games, be and they are hereby declared to be utterly null and void in law to all intents and purposes.

Challenge to fight.

Principal and second.

Penalty.

Sec. 6. *And be it further enacted,* That if any person shall challenge another to fight a duel or shall accept of a challenge to fight a duel or shall knowingly be the bearer of a challenge for the purpose aforesaid or shall be a second to any person that fights a duel, or shall aid, abet or promote any duel, every such person offending upon conviction thereof shall forfeit and pay a sum not exceeding two hundred dollars and shall moreover be rendered incapable of holding any office of profit or trust in the territory or of voting at an election within the same.

Housekolders &c. permitting prohibited games to be played.

Sec. 7. *And be it further enacted,* That any person or persons who shall suffer any of the games played at the tables named in the third section of this act or any kind of gaming table or gambling device at which any game of chance is played or money or

property won or loſt in his or her houſe, ſhed, outhouse, barn, ſtable, booth or other place of which he or ſhe hath at that time the uſe or poſſeſſion, he, ſhe or they so offending ſhall, for every ſuch offence forfeit a ſum not exceeding *five* hundred dollars nor leſs than fifty dollars at the discretion of the court before whom the conviction is had and the perſon so convicted ſhall ſtand committed till the ſentence of the court is complied with. Penalty.

Sec. 8. *And be it further enacted*, That all the fines and penalties impoſed by virtue of this act may be recovered with coſts by indictment before any court having competent jurisdiction, one half for the benefit of the proſecutor, and the other half for the uſe of the county wherein the offence may have been committed. Fines and penalties how recovered.

Sec. 9. *And be it further enacted*, That this act ſhall commmence and have force and effect from and after the firſt day of March next.

GEO. BULLITT,
Speaker of the House of Representatives.
S. HAMMOND,
President of the Legislative Council.
APPROVED, JANUARY 8, 1814.
WILLIAM CLARK,
Governor of Missouri Territory.

AN ACT

Creating the office of county surveyor and defining the duties thereof,

BE *it enacted by the General Assembly of the territory of Missouri*, That it shall be the duty of the court of common pleas in each and every county in this territory at their first session after this act takes effect or so soon thereafter as may be to appoint some person in their county who is well qualified to act as county surveyor; and it shall be the duty of said court to examine or cause to be examined the persons applying for said appointment and thereupon to appoint the person or candidate applying for the office who shall be best qualified to perform the several duties hereinafter directed; and shall forthwith certify such appointment under the seal of the court to the Governor who shall thereupon grant a commission for the person so appointed—and the surveyor after having received such commission shall before he enters upon the duties of his office take an oath of office according to law, and shall give bond with one or more sufficient securities to be approved of by the court of common pleas, in the penal sum of two thousand dollars, payable to the Governor and his successors in office for the use of every person concerned or to whom any damage may accrue through the neglect or misconduct of such surveyor, conditioned for the true and faithful performance of the several duties of his office or appointment of county surveyor agreeably to law.

Court to appoint a county surveyor.

Governor to commission.

Oath and bond.

Sec. 2. *And be it further enacted.* That it shall be the duty of the county surveyor to survey all lands which may be sold for taxes in his county, on the application of any person producing to him a certificate from the proper officer agreeably to law.

To survey lands sold for taxes.

Sec. 3, *And be it further enacted.* That it shall be the duty of the said county surveyor to execute and perform all orders to him directed by any court of record for surveying or resurveying any tract of land the title of which is in dispute or litigation before such court and also all orders of survey for the partition of real estates.

And execute the orders of courts.

Sec. 4. *And be it further enacted.* That no survey or resurvey hereafter made, by any person except the county surveyor or his deputy shall be considered as legal evidence in any court of law or equity within this territory—except such surveys as are made by authority of the United States or by mutual consent of parties: *Provided always* That where it shall appear that the county surveyor is interested in the making of any survey of a tract of land the title of which is in dispute before the court, the said court shall direct the survey or resurvey to be made by some capable person who is in no wise interested, who shall be authorized to administer oaths in the same manner as the county surveyor is directed by the provisions of this act and shall return said survey or resurvey on oath or affirmation and shall receive for his services the same fees

What surveys legal evidence.

When county surveyor interested—court to appoint another

that the county surveyor would do for similar services.

County surveyor to keep record, and give copies.

Sec. 5 *And be it further enacted*, That the surveyor of each county shall keep a correct and fair record of all surveys made by himself and deputies in a book or books to be by him procured for that purpose. He shall number his surveys progressively and shall also file and preserve a copy of the calculation of each survey, endorsing thereon its respective number. A copy of any survey shall be furnished by the surveyor, to any person requiring the same on payment of the fees herein after directed.

Fees.

Sec. 6 *And be it further enacted*, That the several county surveyors may demand and receive for their services the following fees, to wit, for each survey not exceeding fifty acres or arpens the sum of two dollars, and for every additional acre or arpent one half cent when the tract does not exceed six hundred and forty acres or arpens and one fourth of a cent for every acre or arpent over that quantity—a copy of such survey the sum of twentyfive cents where the survey does not exceed fifty acres and above that quantity twelve and a half cents for every hundred acres in addition to the first charge—recording each survey fifty cents, and for every mile he shall travel in going to and returning from the land ordered for survey by the customary rout five cents.

Sec. 7. *And be it further enacted*, That

each chainman or marker employed by the county surveyor or his deputies shall, before he commences the duties assigned him take an oath or affirmation faithfully and impartially to execute the duty of chainman or marker (as the case may be) which oath or affirmation the county surveyor or his deputies are hereby authorized and required to administer. The expence of chain carriers and markers shall be paid by the party at whose request the survey is made: *Provided however* That the chain carriers and markers may be provided by the party requesting such survey, if approved of by the surveyor—and each chainman or marker shall be allowed seventyfive cents for each and every day he is actually employed. Chainmen or markers. Oath. Fees.

Sec. 8. *And be it further enacted*, That the deputies appointed by any surveyor before they proceed to discharge their duties shall take an oath, well, truly and faithfully to discharge the duties of deputy surveyor.

This act shall take effect and be in force from and after the first day of March next.

GEO. BULLITT.
Speaker of the House of Representatives.

S. HAMMOND,
President of the Legislative Council.

APPROVED, JANUARY 10, 1814.

WILLIAM CLARK,
Governor of Missouri Territory.

AN ACT

Defining the powers and duties of justices of the peace in matters of a civil nature.

BE it enacted by the General Assembly of the territory of Missouri, That if any person shall have a demand against another upon bond, bill, note, book-account, promise or for work or labour done, goods, wares, merchandize or other property sold and delivered, and or rent due, which demand or sum due shall not exceed the sum of ninety dollars, such person may make application to any justice of the peace in the township where the defendant resides for a writ of summons against such defendant, which writ of summons as near as circumstances will admit, shall be in the form following to wit. To the constable of township, in the county of greeting: summon C. D. to appear before me, a justice of the peace on the day of at the dwelling house of E. F. (or at my dwelling house as the case may be) between the hours of ten in the forenoon and three of the clock in the afternoon of the said day, to answer A. B. in an action on, (bond, bill, note, book account, or promise as the case may be) given under my hand this day of A. D. G. H. Justice of the Peace. The return day of the summons shall not be more than thirty days, nor less than eight days after the date of the same, of which day and place of hearing the plaintiff or his agent shall be satisfied

90 dolls. debt cognizable by a justice.

Form of summons.

Service.

by the juſtice. And the ſervice on the defendant ſhall be by reading the original ſummons in the hearing of the defendant, or by leaving a copy of the ſame at his dwelling houſe or laſt or uſual place of abode in the preſence of one or more of his family or neighbors at leaſt ſix days before the time of hearing.

Juſtices to aſſign one day in each month for the trial of cauſes.

Sec. 2 *And be it further enacted*, That the ſeveral juſtices of the peace in this territory ſhall make all ſummones returnable before them once a month, and ſhall appoint one day in each month which day ſhall be named in each ſummons by them iſſued for the hearing and determining all matters in controverſy between plantiff and defendant and the ſaid juſtices ſhall not hear or determine any matter in controverſy where the ſuit ſhall be inſtituted by ſummons as aforeſaid on any other day, except it be by conſent of parties or unleſs the juſtice ſhall adjourn for want of time to try the ſame on the day appointed in the ſummons.

Abſconding or removing debtors.

Sec. 3. *And be it further enacted*, That if the plantiff or his agent make oath or affirmation that he has reaſon to believe that the defendant is about to abſcond or move out of the townſhip and that he is in danger of loſing his debt, in ſuch caſe it ſhall be the duty of the juſtice on the application of the plantiff or his agent to grant a warrant in the following form to wit, To the conſtable of the townſhip of in the county of

Warrant.

greeting take C. D. and bring him forthwith before me a juſtice of the peace to anſwer A. B. in an action on bond, bill note, promiſe or book account, or rent due, as the caſe may be. Given under my hand &c. (as in the caſe of a ſummons.)

Judgments under 10 dollars final.

Sec. 4. *Be it further enacted*, That if the parties appear before the juſtice either in perſon or by agent the juſtice ſhall proceed to hear the proof and allegations, and if the ſum demanded ſhall not exceed the ſum of ten dollars ſhall give judgment according to right and juſtice which judgment ſhall be final. But if the ſum demanded exceed the ſum of ten dollars either party ſhall have a right upon application therefor to a trial by jury, which jury ſhall conſiſt of ſix good and lawful free white male perſons of the age of twenty one years and upwards having the qualifications to ſerve as jurors in the court of common pleas, and the parties may mutually agree on ſaid jury. But upon the neglect or refuſal of either party, the juſtice ſhall write the names of eighteen reſpectable perſons qualified to be jurors as aforeſaid who are in no wiſe related to the parties, and require each party to ſtrike out the names of ſix perſons, and upon the neglect or refuſal of either party to ſtrike out as aforeſaid, the juſtice ſhall ſtrike out ſix names for each party ſo refuſing and the remaining ſix ſhall be the jury who ſhall be ſworn or affirmed well and truly to try all matters in diſpute between the parties and a true verdict return to the juſtice who

If demand exceed 10 dolls. either party may have a jury.

shall thereupon enter up judgment therefor, with costs and shall allow each of the jury twenty-five cents for his services, which said judgment so had and obtained when the demand in question shall not exceed the sum of twenty dollars shall be final and conclusive on both parties without further appeal, and it shall be the duty of the justice to issue his summons to the constable of the township or some other fit person to summons the six persons named for the jury as aforesaid, to meet forthwith before said justice or at such time and place as the justice shall appoint, and every person summoned as aforesaid who shall neglect or refuse to attend as commanded in said summons unless prevented by sickness or some unavoidable accident) shall forfeit and pay the sum of four dollars to the supervisor of roads to be by him applied in repairing the public highways in the township where such person or persons shall reside, which fine shall be recovered before such justice of the peace on complaint of the party injured by an action of debt founded on this statute: *Provided* That said action be brought within thirty days after such neglect or refusal. And where it shall so happen that any of the six jurors appointed as aforesaid cannot attend, and the parties will not agree on a person or persons to fill such vacancy, the justice shall proceed to write the names of of three times the number of such deficiency, and upon the refusal of either party to strike out one third part of the names thus

No appeal under 20 dolls.

Jury 6 be summoned.

Fine for non attendance.

written, the juſtice ſhall proceed to ſtrike out as aforeſaid and ſhall ſummon the remaining perſons in manner before directed who ſhall ſupply the deficiency of ſuch jury.

Juſtice may give power to ſerve proceſs

Sec. 5. *And be it further enacted*, That if it ſhall be made to appear to any juſtice of the peace that a writ of ſummons or warrant or any execution by him iſſued may fail of ſervice, for want of a proper officer ſeasonably to be had, ſuch juſtice is hereby empowered to deputiſe any ſuitable perſon to ſerve and return the ſame by inſerting on the back of ſuch writ and ſigning the words following to wit. At the riſk and requeſt of the plantiff I authoriſe G. H. to ſerve and return this writ—ſigned E. F. juſtice of the peace, and the perſon ſo authoriſed ſhall have the power of the perſon to whom the writ is directed, in the ſervice and return of ſuch writ, and ſhall be ſworn to the truth of the return by him made.

Offsets.

Sec. 6 *And be it further enacted*, That if the plantiff in any action pending before a juſtice of the peace ſhall be indebted to the defendant by bond, bill, note, book account or other contract the defendant may plead in offset to the plantiff's demand any ſum within the jurisdiction of the juſtice, and the juſtice or a jury, if the caſe be tried by a jury ſhall audit and adjuſt all accounts and demands between the parties brought before them, if within the jurisdiction of a juſtice as aforeſaid, and draw the

juſt balance between the parties, and judgment ſhall be entered up for ſuch balance accordingly—and the judgment ſo had and obtained ſhall be a compleete bar to all demands thus audited, adjuſted and decided on between the parties if within the juriſdiction of a juſtice of the peace as aforeſaid: *Provided* That no ſum on any bond, note, book account or any other demand ſold, endorſed or aſſigned to the plantiff or defendant ſhall be allowed in any plea in offset unleſs it ſhall appear on trial that notice of ſuch ſale or aſſignment was given by the party holding ſuch bill, note or other demand to the oppoſite party before the commencement of the plantiff's action, which in ſuch caſe ſhall be taken to be the day of ſervice of the original writ in the action. *Provided* That nothing herein contained ſhall cut off any demand the defendant may have againſt the plantiff if judgment is rendered by default—and *Provided alſo*, That nothing herein contained ſhall cut off either party of his right of defence againſt ſuch bond, note or other demand on account of ſuch aſſignment but ſuch party ſhall be allowed to make his defence in ſuch manner as he would have done had the ſuit been commenced by the original owner or had the original owner of ſuch demand plead the ſame in offset.

Appeals.

Sec. 7. *And be it further enacted*, That in all cases within the juriſdiction of a juſtice of the peace (except ſuch as are

herein before mentioned which shall be final) any person who shall think himself or herself aggrieved by the justice or judgment given or rendered before such justice, either by such justice or jury shall have liberty to appeal therefrom within ten days after rendering such judgment, to the next court of common pleas to be holden within and for the said county, whether the same be a stated or adjourned term; and the party appealing if plaintiff shall be bound with surety in a recognizance in a sum sufficient to cover the costs which have or may accrue, in the following form to wit. We the subscribers acknowledge to be indebted to A. B. the defendant in the sum of dollars to be levied upon our respective goods and chattles, upon this condition, that C. D. shall prosecute his appeal, and that if the judgment of the justice shall be affirmed, by the court, or if he shall recover less than the amount of the judgment of the justice; that he shall pay all the costs that are or may accrue hereafter—if the defendant appeals the recognizance shall be taken in the same way and form in a sum sufficient to cover the sum in controversy and all the costs upon condition, that if the judgment shall be affirmed by the court, or if the plaintiff shall recover more than the amount of the judgment of the justice that such defendant shall pay the amount of such judgment and costs—which recognizance shall be subscribed by the party appealing and the surety, and tested by the justice—and

it shall be the duty of the justice to file, on or before the first day of the next term of the court with the clerk of said court the original papers and process together with the aforelaid recognizance and other papers appertaining to the cause, and a copy of the entries made in his docket. The clerk shall enter the appeal on his docket, and the suit shall be tried and determined in its order like other cases where the parties are considered in court the first term, unless sufficient cause be shewn to the court to grant a continuance—and the costs accrued before the justice shall attend the event of the suit: *Provided* That no appeal shall be allowed in any case where the judgment shall have been rendered by default or of non suit.

Judgment on default.

Sec. 9. *And be it further enacted*, That if on the return day of the summons, the defendant neglects or refuses to appear as he was commanded by the summons and the plaintiffs demand is founded on a note or other instrument of writing signed by the defendant and it shall appear by the return of the summons signed by the constable that the same was served on the defendant in manner as herein before directed, it shall and may be lawful for the justice to give judgment by default for the amount that may appear to be due on such instrument of writing together with costs and to issue execution for the same—and in case the plaintiffs demand is founded on promise or book account the

juſtice may go into the examination of witneſſes to ſubſtantiate the plaintiff's demand, and the plaintiff ſhall recover no more than what he can actually prove is due him from the defendant, and it is hereby made the duty of the juſtice to enter judgment therefor, and iſſue execution accordingly—and if the plantiff does not appear, on the day appointed for trial either in perſon or by agent to ſubſtantiate his demand the juſtice ſhall then proceed to give judgment againſt him by non suit for the coſts of ſuit, *Provided* That every juſtice of the peace ſhall have deſcretionary power to grant a new trial in all matters cognizable before him, and open judgment of non ſuit, or judgment by default at any time after the rendition of ſaid judgment upon the application of the party injured or his agent giving due notice to the oppoſite party of the time and place of hearing, upon ſuch conditions and regulations as he ſhall think *fit* and reaſonable, and all proceedings ſhall be had therein, the ſame as tho' no judgment had been rendered provided ſuch application is made before the iſſuing execution upon ſuch judgments.

Non Suit.

May be opened.

Offsets of mutual judgments.

Sec. 9. *Be it further enacted*, That when these are mutual judgments recovered between the parties before a juſtice of of the peace, such juſtice may on the application of either party if ſuch application is made in court before ſuch juſtice, offset ſuch judgments againſt each other, and the

execution ſhall iſſue for ſuch balance as remain due after ſuch offset.

Subpoenas iſſued by a juſtice of the peace.

Sec. 10. *Be it further enacted*, That every juſtice of the peace within this territory be and he is hereby empowered to grant ſubpoenas for witneſſes in all caſes cognizable before the general or ſuperior court and the ſeveral courts of common pleas, within this territory, in all cases cognizable before a juſtice of the peace, in all matters ſubmitted to referees or arbitrators to appear at a certain time and place where the ſame may be lawfully taken, to give his depoſition or evidence—and ſuch ſubpoenas may be directed to any conſtable in the townſhip where the witneſs reſides if within the ſame county with the juſtice iſſuing the ſubpoena, which ſaid conſtable is hereby empowered to ſerve and return the ſame.

Conſtable failing to ſerve process.

Penalty.

Sec. 11. *Be it further enacted*, That if any conſtable ſhall fail to ſerve any writ or precept to him directed and make due return of the ſame or ſhall make a falſe return every ſuch conſtable offending ſhall forfeit and pay the ſum of ten dollars to the party injured, and all damages the party may ſuſtain in conſequence of ſuch neglect to be recovered before any juſtice of the peace in the townſhip where ſuch conſtable ſhall reſide upon an action of debt founded on this ſtatute.

Trial may be adjourned by the juſtice.

Sec. 12. *And be it further enacted*, That every juſtice of the peace ſhall have power

to adjourn the trial of any action brought before him to such further time as he may think proper not exceeding one month, and upon the affidavit of either party or their agents that the testimony of a material witness who resides out of the county or at a greater distance than twenty miles from the place of trial or from infirmity of body or other causes cannot be obtained personally, the cause shall be postponed to a day certain within such reasonable time as the distance of the witness, or the season of the year may make it necessary to obtain the deposition of such witness, and whenever a case is postponed at the instance of the defendant and the original process has been a warrant such defendant shall enter into a recognizance for a sum sufficient to cover the demand and costs with one sufficient surety for his appearance on the day appointed for the trial of the cause. And whenever a rule for taking the deposition of witness or witnesses shall be applied for, the party applying shall give notice to the adverse party of the time and place of taking the same at least ten days before the taking of said deposition, and the rule to take such depositions being certified by the justice granting the same shall be sufficient authority to any justice of the peace of the territory of the United States or their territories, to take the depositions of such witness or witnesses as may be named in said rule, and the said testimony so taken shall be lawful evidence on the trial

Depositions.

before such *juſtice* or *jury* as the caſe may be.

Sec. 13. *And be it further enacted*, That in all caſes where the original proceſs has been a ſummons or where the original proceſs has been a warrant and the defendant ſhall enter ſpecial bail for the action and the *judgment* ſhall be above ten dollars and not exceeding thirty dollars there ſhall be a ſtay of execution for two months—and when the *judgment* ſhall be above thirty dollars and not exceeding *fifty* dollars, there ſhall be a ſtay of execution for four months; and when the *judgment* ſhall be above *fifty* dollars and not exceeding ninety dollars there ſhall be a ſtay of execution for ſix months *Provided nevertheleſs* That if the plantiff or his agent will make oath or affirmation before the *juſtice* rendering the *judgment* that he has reaſon to believe the defendant is ſecreting his property or putting it out of his hands in order to cheat and defraud his *juſt* creditors and that he verily believes that the debt will be loſt whereupon *judgment* was obtained unleſs execution immediately iſſues for the ſame, or will make other ſatisfactory proof to the *juſtice* of the ſame fact, then, in that caſe it ſhall be the duty of the *juſtice* to iſſue execution forthwith againſt the goods and chattles only of the defendant and not againſt his body until after the time limited for the ſtay of the ſame. Stay of execution.

Sec. 14. *And be it further enacted*, That

Justice to receive and pay over the amount of judgments,

every justice of the peace rendering judgment as aforesaid shall receive the amount of the judgment if offered by the party or his agent before execution, and pay the same over to the person to whom it may be due or his agent on request, for which service he shall receive, if the sum exceeds ten dollars, twenty five cents of the party paying the same in addition to his usual fees; and if the justice shall neglect or refuse to pay over on demand the money so received to the person to whom it is due or to his agent, such neglect shall be deemed a misdemeanor in office, and upon conviction thereof in the court of commmon pleas the justice shall be liable to a fine not exceeding double the sum received by him as aforesaid, and it shall be the duty of the governor to revoke the commission of such justice.

Penalty.

Execution.

Sec. 15. *And be it further enacted.* That if the amount of the judgment is not paid to the justice as aforesaid, he shall grant execution therefor together with costs; if for a sum not exceeding ten dollars, forthwith, and for any other sum, after the time limited for the stay of the same, which execution shall be in the form following to wit. To the constable of township, in the county greeting: whereas A. B. has obtained judgment before me a justice of the peace in the township aforesaid against C D for a debt of and for his costs—these are therefore to com-

mand you to levy the said debt and costs of the goods and chattles of the said C. D. and to expose the same within thirty days from this date, to sale by public vendue, giving due notice of the same at least ten days previous to the day of sale by at least three advertisements put up at the most public places of your township and returning the overplus if any, to the said C. D. and for want of sufficient distress you are commanded to take the body of the said C. D. in custody and convey him to the common jail of the county the sheriff or keeper whereof is hereby required to receive him and him safely keep until the said debt and costs be fully paid, or the said C. D. be otherwise discharged by due course of law. You are also commanded to make return of this execution to me within thirty days from this date. Given under my hand this day of in the year E. F. J P.

Provided nevertheless That no execution shall issue against the body of any person unless the debt, interest and costs shall exceed the sum of ten dollars.

Sec. 16. *And be it further enacted*, That on the delivery of an execution to a constable an account shall be stated on the docket of the justice, and also on the back of the execution of the debt, interest and costs and fees due to each witness, juror and officer seperately, from which the said constable shall not be discharged but by producing to the justice, on or before the return day of

Constable's duty.

In execution of process.

the execution, the amount of the execution in money, or the receipt of the perſon to whom the money is due, or ſuch other return as may be ſufficient in law—and in caſe of a falſe return, or in caſe he neglects or refuſes to make return, or does not produce the amount of the execution or receipt as aforeſaid or make ſuch other return as may be deemed ſufficient, the juſtice ſhall on application of the party injured or his agent iſſue a ſummons commanding the ſaid conſtable to appear before him on ſuch day as ſhall be named in the ſummons not exceeding ſix days from the date thereof and then and there to ſhew cauſe why an execution ſhould not iſſue againſt him for the amount of ſaid execution. And if the conſtable ſhall neglect or refuſe to appear as aforeſaid or does not ſhew ſufficient cauſe why execution ſhould not iſſue againſt him then the ſaid juſtice ſhall enter judgment againſt ſuch conſtable for the amount of the firſt execution with coſts, from which judgment there ſhall be no appeal nor ſtay of execution, and execution ſhall iſſue forthwith for the ſame: *Provided always* That the party injured may have his election to proceed againſt the conſtable in the manner herein directed or inſtitute a ſuit in the court of common pleas againſt the conſtable and his ſureties.

Proceedings againſt the conſtable.

Special bail may ſurrender principal.

Sec. 17. *And be it further enacted*, That the ſpecial bail entered before any juſtice of the peace in any civil ſuit may ſurrender the

principal on the execution that may iſſue against such principal, whereupon his bail ſhall be discharged.

Sec. 18. *And be it further enacted*, That when an execution iſſued by a juſtice of the peace ſhall be returned by the conſtable or other perſon to whom it is directed that neither the body nor property of the defendants can be found whereupon to levy the ſame it ſhall be the duty of ſaid juſtice to iſſue a ſummons againſt the bail in the original action, if any, to appear before him on a certain day therein ſtated, and ſhew cauſe if any he has why execution ſhould not iſſue againſt him for the amount endorſed on the firſt execution with coſts—and ſuch ſummons may be directed to any conſtable of the townſhip where the bail reſides to ſerve and return the ſame, if within the county where the juſtice reſides iſſuing the same and if the ſaid bail ſhall neglect to appear, or appearing ſhall not ſhew ſufficient cauſe as aforeſaid, execution ſhall forthwith iſſue againſt ſaid bail, without appeal—and every ſurety of whom ſuch recovery is had, or ſhall otherwiſe ſuſtain damages by being bail as aforeſaid ſhall have a right to recover all ſuch damages he, ſhe or they ſhall ſuſtain againſt ſuch principal upon action of debt founded on this ſtatute before any court that has juriſdiction to the amount of the ſum recovered or damages ſuſtained by ſuch ſurety *Provided however*, That the bail ſhall have a right to ſurrender the principal at the time and place he is ſummoned be-

Proceedings againſt bail.

Proceedings of bail againſt principal.

fore such justice aforesaid, *Provided* it be before judgment is rendered against him as such bail, and after paying all costs that may have accrued on such action such bail shall be discharged and the principal charged forthwith in execution.

Certiorari.

Sec. 19 *And be it further enacted*, That in all cases either party shall have the right of removing a judgment rendered by a justice of the peace by a writ of certiorari to the court of common pleas of the county where the justice resides, *Provided* such certiorari is applied for within thirty days after the judgment shall have been rendered.

To be certified,

Sec. 20. *Be it further enacted*, That upon the return of the certiorari the justice shall certify the proceedings had before him by sending the original process, a copy of the judgment and execution, if any be issued. And if the court shall set aside the proceedings of the justice for irregularity or informality appearing on the face of the same the court shall examine into the merits of the case, and give judgment as in other cases.

Of what species of actions a justice shall not have cognizance.

Sec. 21. *Be it further enacted*, That no justice of the peace shall have cognizance of any action of ejectment brought to obtain possession of lands and tenements, actions of replevin, slander, actions of real contract for the sale or conveyance of lands and tenements civil actions for damages, or actions of personal assault and battery, wounding or

maiming, actions for false imprisonment, or actions upon promise of marriage.

Amicable actions.

Sec. 22. *Be it further enacted.* That justices of the peace shall have power to enter on their docket by consent of parties amicable actions without any process, and to take the confession of judgment of any defendant appearing before him in his own proper person in cases cognizable before a justice by this act, in which case the same proceedings shall be had, and the same stay of execution be granted as is provided for by this act when the action is commenced by a summons or a warrant.

A copy of judgment of a justice filed in the clerk's office shall be a lien on the property.

Sec. 23. *And be it further enacted.* That any person obtaining a judgment before a justice of the peace above the sum of ten dollars may file a transcript of such judgment in the office of the clerk of the court of said county where the justice resides which shall from the time of filing such transcript have the same lien on the real estate of the defendant as a judgment rendered in the court of common pleas, *Provided* no execution shall issue out of the clerks office until an execution shall have been previously issued by said justice and the constable or such other [illegible] to whom the same may be direc[illegible]oresaid shall have returned that no goods and chattles of the defendant, are to be found in his township.

Other courts not to usurp

Sec. 24. *Be it further enacted,* That the several courts of record in this territory

the jurisdiction of the justice.

shall take no cognizance of any action, suit or complaint made cognizable before a *justice* of the peace, by this act, except in cases of appeal and certiorari herein provided, and a plaintiff instituting a suit in any court of record which by this act is made cognizable before a *justice* of the peace shall have his writ abated with costs: *Provided however* That in all cases of demands exceeding *fifty* dollars the party may at his election or choice commence his suit before the court of common pleas and not before a *justice* of the peace, any thing in this act to the contrary notwithstanding.

Exception.

Justice may issue process against persons who reside out of his township in certain cases.

Sec. 25. *And be it further enacted*, That it shall be the duty of every *justice* of the peace on the application of any person to issue process against any person residing out of his township on all matters cognizable before a justice of the peace: *Provided* the cause of action did arise within the township where the said justice resides and provided the defendant be found within such township and the defendant against whom such writ shall be instituted as aforesaid shall not be held to bail.

When defendant resides in another township, execution to be directed to the constable thereof.

Sec. 26. *And be it further enacted*, That in all cases where a justice shall give judgment under this act, and it shall be suggested by the plaintiff or his agent that the defendant against whom such judgment is rendered doth reside out of the township of the said *justice*, and that no goods and chattels can be found in the township where the

justice resides to satisfy the judgment, in such case it shall be the duty of the justice to issue an execution directed to the constable of the township where the defendant resides, or his goods and chattels are to be found (if within the county where the justice resides) it shall be the duty of the constable to whom the execution is directed, to execute the same and make return thereof to the justice who issues the execution in the manner provided by this act respecting executions directed to the constable of the township where the justice resides.

A justice removing to deposit his docket in the clerks office.

Sec. 27. *And be it further enacted*, That every justice of the peace shall keep a docket in which he shall make fair and accurate entries of all actions and suits instituted before him with his proceedings thereon, and that when any justice of the peace shall remove out of the county in which he shall be appointed it shall be his duty to deliver to the clerk of the county court of the same county at least one month before his removal such docket with all his files belonging to his office as a justice of the peace, and on failure thereof shall for every months neglect after one month as aforesaid forfeit and pay to the treasurer of the county in which such justice shall have been appointed the sum of ten dollars to be recovered with costs by action of debt founded on this statute, And when any justice of the peace shall die the executor or administrator of such justice whether he was in

Death of a justice, duty of his ex'or.

office at the time of his deceaſe or not ſhall within one month after taking out letters of adminiſtration or teſtamentary to ſuch deceaſed's eſtate deliver to the clerk of the county as aforeſaid the docket and *files* of ſuch juſtice, and in default thereof ſhall forfeit as aforesaid, to be recovered and applied as aforesaid and atteſted copies of th files and entries made by the clerk with whom th y ſhall be lodged as aforeſaid ſhall be as valid to all intents and purpoſes as though the ſame had been made by ſuch *juſtice* in his life time. And where any judgment ſhall have been rendered by any *juſtice* of the peace on confeſſion or otherwiſe and ſuch *juſtice* ſhall die, be removed from office or move out of the county before execution ſhall have been iſſued thereon, the party recovering ſuch judgment may apply to any *juſtice* in the township where the aforesaid juſtice reſided who ſhall iſſue his ſummons commanding the oppoſite party to appear before him and ſhew cauſe (if any he has) why execution ought not to iſſue againſt him for the ſame, and if ſufficient cauſe is not ſhewn to the contrary, execution ſhall iſſue accordingly, and a copy of the judgment ſigned by the *juſtice* ſo removed, or by the clerk of the county court with whom the ſame may be lodged ſhall be ſufficient evidence to iſſue execution for ſuch ſum as ſhall appear to be unpaid.

Death of a juſtice before ex'on. of his judgment.

Repeal of former acts.

Sec. 28 *And be it further enacted*, That an act paſſed by the governor and *judges* of

the territory of Louisiana entitled 'An act for the recovery of debts and demands not exceeding sixty dollars before a justice of the peace' passed the seventh day of July eighteen hundred and seven and 'An act supplementary to an act entitled An act for the recovery of debts and demands not exceeding sixty dollars before a justice of the peace' passed the twenty sixth day of October, eighteen hundred and ten, be and the same are hereby repealed: *Provided* That all actions instituted under the aforesaid acts shall be determined and execution awarded as if this act had not been passed.

This act shall take effect and be in force from after the first day of May next.

GEO. BULLITT,
Speaker of the House of Representatives.
S HAMMOND,
President of the Legislative Council.
APPROVED JANUARY 11, 1814.
WILLIAM CLARK,
Governor of Missouri Territory.

AN ACT

Authorising ministerial officers to call to their assistance the power of the county.

BE it enacted by the General Assembly of the territory of Missouri. That in all cases where by the common law or the

Power to call to his aid.

statute of this territory any miniſterial or other officer is authoriſed or directed to execute any proceſs, he ſhall be authoriſed if neceſſary to call to his aid all free white, male inhabitants of the county in which ſuch officer is authoriſed to act above the age of twenty one years who live moſt convenient to the place where ſuch act is to be done or proceſs executed.

Whom.

Conſtable may demand aid.

Sec. 2. *Be it further enacted*, That every conſtable within this territory is hereby authoriſed to call to his aſſiſtance in the execution of any proceſs, he is authoriſed by law to execute, any free white male above the age of twenty one years in the county where he is authoriſed to act.

Sec. 3. *Be it further enacted*, That if any ſuch perſon or perſons ſhall refuſe or neglect to obey the ſummons of any ſuch officer ſuch perſon or perſons neglecting or refuſing ſhall on conviction by indictment be fined in any ſum at the diſcretion of the court trying the ſame not exceeding fifty dollars, nor leſs than five dollars.

This act ſhall take effect and be in force from and after the firſt day of March next.

GEO. BULLITT,
Speaker of the House of Representatives.
S. HAMMOND,
President of the Legislative Council.

APPROVED JANUARY 12, 1814.
WILLIAM CLARK,
Governor of Missouri Territory.

[64]

A BILL

A bill to alter the time of holding the court of common pleas in the county of St. Charles.

BE *it enacted by the General Assembly of the territory of Missouri*, That the February term of the court of common pleas for the county of St. Charles shall hereafter be holden on the second monday in February annually, and all causes whatever shall have day in said court on the said second monday in February—and all processes returnable to the February term of said court, shall be construed to be returnable to the said term of said court, on the second monday as aforesaid.

Sec. 2. *And be it further enacted*, That this act shall take effect and be in force from and after the passage thereof.

GEO. BULLITT.
Speaker of the House of Representatives.

S. HAMMOND,
President of the Legislative Council.

APPROVED JANUARY 13, 1814.

WILLIAM CLARK,
Governor of the Missouri Territory.

AN ACT

Establishing the office of territorial auditor and treasurer and fixing their salaries.

BE *it enacted by the General Assembly of the territory of Missouri*, That the governor of this territory shall appoint and commission some fit and competent person as auditor of public accounts, who shall before he enters on the discharge of his duties take an oath of office according to law and give bond to the Governor of the territory and his successor in office with good and sufficient surety to be approved by the governor in the sum of three thousand dollars conditioned for the faithful discharge of the duties of his office.

Auditor to be appointed.

Oath.

Bond.

Sec. 2. *And be it further enacted*, That the said auditor shall hereafter receive in full for his services a salary of three hundred dollars annually to be paid out of the territorial treasury; and he shall be bound well and truly to execute and faithfully to discharge all and singular the duties appertaining to his office according to law.

Salary.

Duties.

Sec. 3. *And be it further enacted*, That the Governor shall also appoint and commission a fit and competent person as territorial treasurer, who shall before he enters on the discharge of his duties take an oath of office and give bond to the governor of the territory and his successor in office with sufficient surety to be approved of by the

Treasurer to be appointed.

Oath.

governor in the sum of fifteen thousand dollars conditioned for the true and faithful discharge of the duties of his office. Bond.

Sec. 4, *And be it further enacted*, That the said treasurer shall receive in full for his services a salary of three hundred dollars annually, to be paid out of the territorial treasury. And it shall be the duty of the said treasurer to execute and discharge all and singular the duties required of him by law. Salary. Duties.

Sec. 5, This act shall take effect and be in force from and after the first day of February next.

GEO. BULLITT,
Speaker of the House of Representatives.
S. HAMMOND.
President of the Legislative Council.
APPROVED, JANUARY 15, 1814.
WILLIAM CLARK,
Governor of the Missouri Territory.

AN ACT

Respecting the incorporations of the towns of St. Louis and St. Genevieve.

BE *it enacted by the General Assembly of the territory of Missouri*, That the chairman of each board of trustees of the towns of St. Louis and St. Genevieve shall on or before the first day of March next cause to be published in the Missouri Gazette a correct statement of all monies received and disbursed for the use and bene- Chairmen of the boards to publish an account of receipts and disbursements

ſt of either of the towns ſince the ſame have been incorporated, which ſtatement ſhall be publiſhed in the French and Engliſh languages and a like ſtatement ſhall be made and publiſhed by the truſtees every ſixth months thereafter, and if the chairman of either board of truſtees for the ſaid towns ſhall at any time neglect to make and cauſe to be publiſhed a ſtatement as aforeſaid according to the proviſions of this act, he ſhall forfeit and pay for every ſuch neglect the ſum of fifty dollars, to be recovered by action of debt in any court of record in this territory having competent jurisdiction, one half whereof ſhall be for the uſe of the ſaid corporation and the other half to the uſe of any perſon who will ſue for the ſame.

Every ſix months.

Penalty.

Sec. 2. *And be it further enacted*, That the chairman of each board of truſtees ſhall be authoriſed to commence ſuit in his own name as ſuch againſt any perſon who may have been an officer of the ſaid corporation and who detains in his hands money belonging to the ſame which ſuit may be commenced and carried on to final judgment and execution in any court having competent jurisdiction thereof.

Chairmen may commence ſuits.

This act shall take effect and be in force from and after the passage thereof.

GEO. BULLITT,
Speaker of the House of Representatives.
S. HAMMOND,
President of the Legislative Council.
APPROVED, JANUARY 15 1814.
WILLIAM CLARK,
Governor of the Missouri Territory.

AN ACT

For the relief of Jeremiah Connor.

BE *it enacted by the General Assembly of the territory of Missouri*, That there be released to Jeremiah Conner (former sheriff of the district of St. Louis) a fine of ten per centum per month and all legal interest on a judgment given against him by the court of common pleas of the late district of St. Louis at their March term in the year, eighteen hundred and eleven in favour of the said district for the sum of six hundred and thirtynine dollars and fifty seven cents.

This act shall take effect and be in force from and after the passage thereof,

GEO. BULLITT,
Speaker of the House of Representatives.
S. HAMMOND,
President of the Legislative Council.
APPROVED JANUARY 15, 1814
WILLIAM CLARK,
Governor of the Missouri Territory.

AN ACT

In addition to the several acts of this territory establishing courts of common pleas and for other purposes.

Preamble.

Whereas it is doubtful by the nineteenth section of said act whether the authority vested in the person appointed by the superior court under the authority of said act will extend to and authorise such person to call to examination persons in arrears with county or district monies.

Powers of the person appointed to settle with late and present holders of public monies.

THEREFORE *Be it enacted by the General Assembly of the territory of Missouri,* That the person appointed by the superior court by virtue of the nineteenth section of said act is hereby authorised to call to account and settle with all sheriffs and collectors in this territory, as well those who are now in office as those who have been heretofore in office, and who have not settled up their accounts and obtained their acquittances according to law for all monies in their hands or which ought to have been by them collected for the use of the respective counties or late districts, and the person appointed as aforesaid is hereby authorised to demand and receive of the sheriffs and collectors aforesaid all monies which may appear to be due and owing as aforesaid, from the sheriffs and collectors aforesaid, and receipt to them respectively for the same and also to proceed against them as is in said act in such cases provided—and it shall be the du-

ty of such person to pay over all monies he may collect as is provided in the aforesaid recited section, retaining ten per centum on such sums as he may actually collect and pay over as aforesaid. Compensation 10 per cent.

Sec. 2. *And be it further enacted.* That this act shall take effect and be in force from and after the passage thereof,

GEO. BULLITT.
Speaker of the House of Representatives.
S. HAMMOND,
President of the Legislative Council.
APPROVED, JANUARY 17, 1814.
WILLIAM CLARK,
Governor of the Missouri Territory.

AN ACT

Making appropriations for the year eighteen hundred and fourteen and part of the year one thousand eight hundred and thirteen.

BE *it enacted by the General Assembly of the territory of Missouri,* That there shall be paid out of the territorial treasury on the order or warrant of the auditor of public accounts, to defray the expenditures of the year eighteen hundred and fourteen and part of the year eighteen hundred and thirteen, not more than the following sums to wit. Appropriation for 1813 and 1814.

To the members and officers of the present General Assembly a sum not exceeding five thousand dollars. Members of gen. assembly.

Chs. Sanguinette.

Sec. 2. *And be it further enacted*, That there shall be paid to Charles Sanguinette for two rooms and fire wood furnished for the use of the present General Assembly the sum of one hundred and seventytwo dollars,

Jos. Charless.

To Joseph Charless for printing the laws of the present session of the General Assembly a sum not exceeding three hundred dollars.

Wm. Sullivan.

To William Sullivan for copying the journals of the house of representatives for publication the sum of thirty dollars,

M'Knight & Brady.

To Messrs M'Knight & Brady for paper the sum of five dollars twentyfive cents,

Ro. Simpson.

To Robert Simpson, for stationary one dollar eightyseven and a half cents.

This act shall take effect and be in force from and after the passage thereof.

GEO. BULLITT,
Speaker of the House of Representatives.
S. HAMMOND,
President of the Legislative Council.
APPROVED JANUARY 17, 1814.
WILLIAM CLARK,
Governor of Missouri Territory.

AN ACT

Supplementary to the act making appropriations for the year eighteen hundred and fourteen and a part of the year eighteen hundred and thirteen.

BE *it enacted by the General Assembly of the territory of Missouri*, That in all cases where it is made the duty of the Governor of this territory to have copies of any laws of this territory made and forwarded to the different counties or officers therein named it shall be lawful for the governor to give his certificate to the territorial auditor stating the amount of the expence and for what it was incurred and the auditor shall thereupon issue his warrant on the territorial treasurer who shall pay the amount out of any money in the treasury,

Expence of copying and forwarding the laws by the governor.

How defrayed.

This act shall take effect and be in force from and after the passage thereof.

GEO. BULLITT,
Speaker of the House of Representatives.

S. HAMMOMD,
President of the Legislative Council.

APPROVED JANUARY 18, 1814.

WILLIAM CLARK,
Governor of Missouri Territory.

AN ACT

Supplementary to the act concerning towns in this territory.

BE *it enacted by the General Assembly of the territory of Missouri*, That from and after the the first day of March next if any person or persons being a lot holder in any of the towns or villages of this territory, or not being a lot holder in said towns or villages shall wantonly and unnecessarily cut or destroy any timber growing on the common land of such town or village, it shall and may be lawful for any one person or more being lot holder or holders in such town or village to sue out of the superior court a bill of injunction to stay waste on such common, such bill to be in the name of such person or persons suing for the same and in the name of the inhabitants of such town or village, and such bill shall be proceeded on in the same manner as bills in chancery to stay waste are, and if such bill shall be dissolved, the person or persons suing the same shall pay costs.

Waste on the commons of the villages.

How stayed.

Sec. 2. *And be it further enacted*, That it shall moreover be lawful for any person inhabitant and lot holder of said town or village whether incorporated or not, in his own name, for the use of the said town or village or in the name of said town or village or of the inhabitants thereof, to bring and support any action of trespass against any person not inhabitant of said town or

Action of trespass against persons not inhabitants of the village.

village for trespassing on the commons of said towns or villages.

Sec. 3. *And be it further enacted*, That this act shall take effect and be in force from and after the first day of March next.

GEO BULLITT,
Speaker of the House of Representatives.
S. HAMMOND,
President of the Legislative Council.
APPROVED, JANUARY 17, 1814.
WILLIAM CLARK,
Governor of the Missouri Territory.

AN ACT

Concerning public roads and highways.

BE *it enacted by the General Assembly of the territory of Missouri*, That all the roads in the several counties in this territory that have been laid out by order of any court according to law shall be and they are respectively declared to be public roads—and the said courts of common pleas in the several counties of this territory, now established or hereafter to be established shall have full power and authority, on application to order they laying out of any public road or roads throughout their county when the same shall by them be deemed necessary, and to discontinue such public roads as now are or shall hereafter be found useless, burthensome and inconvenient, and to alter the roads now or here-

Roads heretofore established.

Courts of common pleas empowered to lay out roads.

after to be eſtabliſhed as often as occaſion ſhall require.

On petition to the court for a road.

Sec. 2. *And be it further enacted*, That whenever a petition ſhall be preſented to the court of common pleas ſigned by twelve or more houſe holders inhabitants of the county praying for the eſtabliſhment of a public road to run from a certain place to a certain place therein ſpecified it ſhall be the duty of ſuch court thereupon, if the petition ſhall appear reaſonable to appoint not leſs than three nor more than five commiſſioners, any three of whom ſhall have power to act, which ſaid commissioners ſhall be houſe holders reſident in ſaid county and not intereſted or living in the direction the road is to be run out—and the ſaid commiſſioners ſhall reſpectively take an oath before any judge of the court, or juſtice of the peace of the ſaid county to view and mark out ſaid propoſed road, the neareſt and moſt practicable route, and to the greateſt eaſe and convenience of the inhabitants and as little as may be to the prejudice of any perſon or perſons. And it ſhall be the duty of the ſaid commiſſioners to proceed as ſoon as may be to lay out the ſaid road, and make a return thereof under their hands to the next court (noting thereon the diſtances and courſes as near as practicable of ſuch propoſed road) which return ſo made ſhall be filed, and the ſaid court ſhall thereupon cauſe the clerk to publiſh by putting up at the court houſe

Commiſſioners to be appointed.

To take oath.

Lay out the road.

Return to the court.

door of the proper county a francript of the petition and return for the information of the inhabitants of said county. Published.

Sec. 3. *And be it further enacted*, That when the road ſo laid out ſhall paſs through the lands of any perſon or perſons who ſhall object to or conſider themſelves aggrieved by the ſame it ſhall be the duty of ſaid court on application in writing from the perſon or perſons ſo objecting, at the next term of ſaid court after the return is made by the commiſſioners aforeſaid, to iſſue their precept, directed to the ſheriff or coroner (as the caſe may be) ordering him to ſummon a jury of twelve houſe holders, reſident in ſaid county and not intereſted or living on the direction of ſaid road, and to proceed to the ground through which ſuch objection has been made to the paſſing of ſaid road, and upon actual view and upon oath to enquire and certify to ſaid court what damages if any and how much in their opinion will accrue to the owner or owners of ſuch ground by the paſſing of the road through the ſame. And the ſaid ſheriff ſhall return the inquiſitions ſo by him made, ſigned by all the jury to the next court after the ſame is taken, and it ſhall be the duty of the court to order the damages ſo aſſeſſed to be paid out of the county treaſury: *Provided nevertheleſs* That when it ſhall appear to the court that the damages ſo aſſeſſed tranſcend the utility of

Objections.

How made.

Proceedings as to them.

Inquiſition.

Return

Damages paid out of the treaſury.

Except when they exceed the utility.

that part of said road, such court shall order the same to be altered in such manner as to do such person or persons the least possible injury unless the person so complaining or objecting shall agree to accept such compensation as shall be deemed just and reasonable by said court. *And Provided also* That nothing shall be allowed to any person or persons where such road passes through his her or their unimproved lands. *And Provided further* That if no objection is made or sufficient reason shewn to said court during the term to which the return of the commissioners shall have been made why the proposed road so designated as aforesaid should not be allowed and established, the said court shall declare the said road so designated to be a publick road and highway so to remain until altered by authority of law.

No damages thro unimproved lands.

When no objections are made, court to establish the road.

Sec. 6, *And be it further enacted*, That all publick roads laid out as now in use or which shall be hereafter laid out, shall be cleared of all trees and brush at least twenty feet wide, and such limbs of trees as may incommode horsemen or carriages shall be cut away and no stump shall exceed twelve inches in height; all bridges or causeways made or to be made over small water courses and causeways over swamps or low lands shall be made and kept in repair by the hands subject to work on the roads where the same may be necessary, and the materials wherewith the same shall be made, may be taken from any land the most con-

Roads to be kept in repair by causeways, bridges &c.

convenient to such causeways or bridges, and shall be laid across the road, and be at least twelve feet long well secured and made fast and covered with earth.

Who shall work on roads.

Sec. 5. *And be it further enacted*, That all free male inhabitants between the age of sixteen and forty five years and all male slaves of the same age shall be subject to work on the public roads—and it shall be the duty of the courts of common pleas in each county within four months after the passage of this act to appoint one or more justices of the peace in each township whose duty it shall be to lay off the several roads therein into road districts of convenient length who shall make return of such divisions and the number of them in their townships to the next court of common pleas for said county—and the said court on the receipt of said return from said justice or justices shall at the same term proceed to appoint one fit person being a house holder in each district or road division. And the clerk of the court of common pleas shall within twelve days after the appointment of the overseers as aforesaid of the several districts, notify them of their appointment. And it shall moreover be the duty of the justice or justices of the peace laying out the road divisions in his or their townships from time to time to apportion the persons therein subject to work on said roads, among the several districts in such manner and in such proportion as they shall deem just and equitable, regarding as far as possible

Road districts.

Overseer of roads to be appointed.

Apportionment.

the convenience of the people and the situation of the roads and to give to each overseer of roads in the townships a copy of the apportionment so made and a list of the names of those who are to work his road division.

Overseers for one year.

Sec. 6. *And be it further enacted* That all justices of the peace and overseers of roads so appointed shall serve for one year until others shall be appointed, and any overseer so appointed who shall refuse or neglect to do their duty as is directed by this act, or shall not keep the roads and bridges over small water courses, and causeways and swamps and low lands in repair or let them remain uncleared or out of repair for and during the space of thirty days unless hindered by extreme bad weather such overseer shall forfeit for every such offence the sum of ten dollars to be recovered by indictment or presentment before any court proper to try the same, one half for the use of any person or persons prosecuting for the same, and the other half for the use of the county—and shall nevertheless be subject to an action for damages at the suit of any person injured by such refusal or neglect—and it shall moreover be the duty of the grand jury of the county from time to time to make presentments or prefer indictments to the several courts of all such roads as they shall find out of repair.

Duties.

Penalty for neglect.

Grand jury to present for neglects.

Sec. 7. *And be it further enacted*, That whenever the said roads, small bridges and

causeways shall require repairing the overseer shall give at least two days' notice to all persons subject to work within their respective road divisions or districts of the time and place of attendance with such tools as he may deem necessary. And if any person subject to work as aforesaid shall fail to attend agreeable to such notice together with all slaves, sons, wards and apprentices owned by them or under their care or management they shall be subject to the following fines to wit—for the non attendance of every free person the sum of one dollar per day and for every slave, son, ward and apprentice the sum of one dollar per day to be recovered of the goods and chattels of such white person failing to work on any road and on the goods and chattels of the owner or possessor of such slave or slaves, and on the goods and chattels of the father, master or guardian of any white person under the age of twenty one years who shall fail to work on any road as aforesaid by warrant of distress in an action of debt before any justice of the peace, in the name of the overseer who shall nevertheless be a competent witness against such defaulter or defaulters: unless the party making such default shall within ten days thereafter make such excuse on oath as may be deemed satisfactory to the overseer, *And provided also*, That no justice of the peace shall be authorised to issue a warrant as aforesaid, without satisfactory proof being first made that the

Overseers to give notice to those subject to work on roads

Fines for non attendance.

notice required by this act was duly served.

Fines—how appropriated.

Sec. 8. *And be it further enacted*, That all fines so as aforesaid incurred and collected shall be, one half for the use of the overseer and the other half to be paid into the county treasury.

Obstructions.

Sec. 9. *And be it further enacted*, That when any person or persons shall have made any fence or laid any other obstruction across or in any public road heretofore laid out without the leave of any court having cognizance thereof, it shall be the duty of the overseer of the road in which the same may be, as soon as may be after he has notice or knowledge of such obstruction to cause such obstructions to be removed and the road restored to its original situation, unless in the opinion of such overseer the road now used is equally convenient with the original one. And when any person shall be desirous of removing any road for private convenience such person shall petition any one or more of the judges of the court of common pleas for leave to remove the same, and on such petition it shall be the duty of said judge or judges then to issue an order directed to three free holders of the neighborhood who being sworn as is by this law herein before directed, shall proceed to view the ground over which such removal is intended to be made and if the said free holders shall report to the next court that such alteration will be equally conve-

How removed.

Removal of roads.

dient, the court of common pleas may order the same to be made by the person praying the same which shall be cleared in the same manner as is herein before directed.

Sec. 10, *And be it further enacted*, That when any person shall hereafter make any fence or cut any tree or make any other obstructions in or across any public road unless removed within two days such person shall for every such offence pay a fine not exceeding fifteen dollars to be recovered by a warrant under the hand of any justice of the peace to be applied as is herein before directed; and it shall be the duty of the overseer of the road, forthwith, to cause the said obstruction to be removed.

Penalty for making obstructions in roads.

Sec. 11, *And be it further enacted*, That all the bridges that have been erected by any order of court not being private road bridges are hereby declared to be public bridges; and that from time to time hereafter the court of common pleas of the several counties shall have full power and authority to appoint the places of erecting public bridges, and it shall be the duty of such court to appoint one or more commissioners to contract for the building such bridges as may be deemed necessary for a time not less than two years nor more than four years—and the said commissioner or commissioners before he or they shall enter on the duties of such appointment, shall take an oath before some justice of the peace or judge of the court of common

Public bridges.

Court to appoint the place for erecting them.

And,

Commissioners to contract.

pleas truly and faithfully to perform the truſt repoſed in him. The commiſſioner ſo ſworn ſhall advertiſe the time and place for letting the ſame at three or more public places in the townſhip where ſuch bridge is to be made at leaſt twenty days prior to letting the ſame and ſhall then let the ſame by public outcry to the loweſt bidder taking bond payable to the governor and his ſucceſſors in office to be depoſited in the clerk's office of the courts of common pleas with at leaſt two houſe holders as ſecurities in ſuch penalty as they ſhall deem proper taking into conſideration the value of the bridge, for the performance of ſuch building and keeping in repair ſaid bridge for the time contracted for. And the ſaid court ſhall order the expence of building ſaid bridge to be paid out of any money in the county treaſury.

Advertiſement.

Bond.

How the contractor to be paid.

Sec. 12 *And be it further enacted.* That when a bridge ſhall be neceſſary over any water courſe which divides one county from the other, the courts of common pleas of each county ſhall join in appointing commiſſioners for the building and keeping in repair the ſame and the expences thereof ſhall be defrayed by both counties in proportion to the amount of the general tax of each, to be aſcertained by the digeſt of the general tax taken next before ſuch contract.

Bridges between counties to be built at joint expence.

Sec. 13. *And be it further enacted.* That whenever any public briuges ſhall require

Repairs of bridges.

repairing it ſhall be the duty of the commiſſioners or one of them to give notice in writing thereof to the undertakers or one of their ſecurities, ſtating the repairs neceſſary to be made and requiring the ſame to be made within a reaſonable time to be ſet forth in the ſaid notice and if the ſame ſhall not be made within ſuch time ſuch commiſſioner or commiſſioners ſhall employ ſome other perſon or perſons, forthwith, to make ſuch repairs and ſhall immediately thereafter give an execution againſt the ſaid undertaker and his ſecurities for the amount given for the repairs with coſts.

When commiſſioner becomes a contractor.

Sec. 14. *And be it further enacted*, That when any commiſſioner appointed for letting any public bridges under and by virtue of this act ſhall undertake the building and repairing, and keeping in repair the ſame or ſhall become the ſecurity for any other perſon ſo undertaking, the powers of ſuch commiſſioner ſhall from thence forward ceaſe and determine, and the court of common pleas for the county ſhall appoint another in his room.

Sec. 15. *And be it further enacted*, That ſo much of a law entitled 'an act concerncerning roads and public highways as militate againſt this law be and it is hereby repealed.

This law ſhall be in force and have ef-

fect from and after the first day of March next.

GEO. BULLITT,
Speaker of the House of Representatives.
S. HAMMOMD,
President of the Legislative Council.
APPROVED, JANUARY 18, 1814.
WILLIAM CLARK,
Governor of the Missouri Territory.

AN ACT

Allowing compensation to the members of the present general Assembly and for other purposes.

BE *it enacted by the General Assembly for the territory of Missouri*, That each and every member of the legislative council and house of representatives attending the present general assembly shall be entitled to receive for each and every days attendance on the business of legislation the sum of three dollars and shall also be allowed three dollars for every thirty miles of the estimated distance by the most usual road from his place of residence to the seat of government for going to and returning from the same.

Pay of the members of gen'l. ass'y.

Sec 2 *And be it further enacted* That there shall be paid to the clerk of the legislative council, five dollars per day, and to the clerk of the house of representatives six dollars per day, for every day they and each

Pay of clerks and door keepers.

of them have been employed in the business of their respective houses; and there shall be allowed and paid to the door keeper of the legislative council and house of representatives respectively the sum of one dollar and a half for each and every days attendence during the present session of the general assembly.

Sec. 3. *And be it further enacted*, That the compensation due to the members of the legislative council and house of representatives and their respective officers shall be certified by the president of the legislative council and speaker of the house of representatives each for their members and officers of his own house which certificates shall be to the territorial auditor sufficient evidence of claim, and the said auditor shall thereupon issue his warrant or certificate to the several persons entitled thereto by this act payable at the territorial treasury—and the treasurer shall redeem and pay said certificates or warrants with any money in the treasury.

This act shall take effect and be in force from and after the passage thereof.

GEO. BULLITT,
Speaker of the House of Representatives.
S HAMMOND,
President of the Legislative Council.

APPROVED JANUARY 18 1814.
WILLIAM CLARK,
Governor of Missouri Territory.

AN ACT

Supplementary to the several acts regulating the fiscal concerns of this territory.

Land tax.

BE it enacted by the General Assembly of the territory of Missouri, That there shall be levied and collected as a territorial tax on all lands within this territory claimed as a complete title and on all lands confirmed or granted by the commissioners or the recorder of land titles for the territory of Missouri, and on all lands confirmed by any act of congress, a tax of fifty cents annually for every hundred arpens and so in the same proportion for any greater or less quantity.

50 cents per hundred arps.

Unconfirmed lands.

Sec. 2. *And be it further enacted*, That all lands within this territory not confirmed and claimed by virtue of any concession there shall be levied and collected for each and every year a tax of fifty cents for every hundred arpens; and to the end that the said taxes on land as is herein provided may not be avoided it is hereby declared that there shall be a perpetual lien on all lands made taxable by this act for securing the payment of all taxes and arrearages of taxes which may at any time be due thereon: *Provided nevertheless* That where a large quantity of land is claimed by virtue of any concession not confirmed a part of which is in actual cultivation or use, not more than the part settled on and in actual cultivation or use together with eight hun-

60 cents tax.

Proviso.

fifty arpens attached to each settlement of the same shall be subject to the tax herein before provided to be paid by the person claiming such concession.

Houses and lots in or attached to towns to be assessed,

Sec. 3. *And be it further enacted*, That all town lots within this territory together with the houses and improvements thereon and all lots attached to said town and within the limits of the said town together with the improvements thereon, if any there be shall be fairly and impartially assessed and valued by the proper assessor or assessors of the county or township within which the same may be situated, at whatever sum said assessor shall believe said lot with the improvements thereon as aforesaid are worth in ready money, and there shall be levied and collected on the said assessment or valuation thirty cents on each hundred dollars thereof and so in the same proportion for a greater or less sum.

And taxes 30 cents on every 100 dollars.

Slaves 40 cts.

Sec. 4. *And be it further enacted*, That on each and every slave owned or possessed by any person residing in this territory (except such as may be exempted for sickness or disability by the court of common pleas of the proper county) there shall be levied and collected a tax of forty cents annually.

Tax on retailers of merchandize 15 dollars for every 6 mos.

Sec. 5. *And be it further enacted*, That the tax on stores and on each and every stand used or occupied for vending or retailing merchandize in this territory shall hereafter be fifteen dollars for every six months, to be paid and collected in the

same manner and under the like provisions as are provided by the twentyninth section of the act regulating the fiscal concerns of the territory—and if any person shall by himself or agent retail or vend merchandize in this territory other than is provided in the act to which this is a supplement without having obtained a licence, he, she or they so retailing or vending merchandize shall for every such offence pay for the use of the territory the sum of thirty dollars to be sued for and recovered in the name of the sheriff before any court proper to try the same.

Tax on carriages.

Sec. 6 *And be it further enacted*, That there shall be levied and collected on each and every four wheel carriage of pleasure for the conveyance of persons a tax of ten dollars annually, and on every other carriage of pleasure the sum of five dollars annually.

Indian licences.

Sec. 7. *And be it further enacted*, That each and every person or persons who shall hereafter apply for a licence from the Governor of the territory to trade with any Indians within the territory of Missouri or on any waters bordering on the same shall previous to obtaining such licence, file with the clerk of the court of common pleas of the county from which such equipment is to go a copy of the invoice of his equipment under oath,—of which copy being so filed, and of the amount thereof, the said clerk shall give such person or persons a certificate,

which certificate the person so obtaining shall take to the sheriff of the proper county and file with him—and the said person or persons so filing the certificate as aforesaid shall pay as a territorial tax one per cent on the amount of his invoice of equipment, which it shall be his duty to pay to the sheriff of the proper county, and the said sheriff is hereby authorised to receive the same and receipt therefor—and on producing such receipt of the sheriff to the Governor of the territory, it shall be lawful for said governor to give such person or persons the licence they may require. And it is hereby made the duty of the clerk to forward to the territorial auditor a list of such invoices so filed and their amount, when he forwards his other statements by this law provided to the territorial auditor to be by him kept as evidence against said sheriff—and the sheriff shall account for the monies so received as he accounts for other monies due the territory and shall receive the same per cent for collecting the same.

Tax of one per cent on invoice.

Sec. 8. *And be it further enacted*, That there shall be paid on every original writ and execution issued out of any court of record in this territory a tax of seventy-five cents, if such process issues from the court of common pleas, to be a lien of the tax heretofore imposed by law on processes issuing from said court, to be paid to the clerk before the issuing of such writ or execution—and there shall also be paid on every

Tax on original writs and executions.

conviction by verdict or confession except in capital cases, a tax of one dollar to be paid to the sheriff as other monies on execution.

Statements to be made by clerks of courts in March and September—and pay over to sheriffs.

Sec. 9. *And be it further enacted*, That the clerks of the several courts of record within this territory shall annually on the *first* mondays in March and September pay over to the respective sheriffs all monies received or which ought to have been received by them for tax on writs and executions as well as the tax on deeds, mortgages and other instruments of writing on which a tax is paid and all other money by them received for the use of the territory and take the sheriff's receipt therefor—and the said clerks shall respectively, at the same time, make out a statement of all writs and executions by them issued and of all convictions in criminal cases, and also of all fines imposed and monies received for tavern and ferry licences within the last six months preceding the time of making such statement, which statement together with a copy of the receipt as aforesaid, the clerk shall forthwith transmit to the territorial auditor of public accounts who shall thereupon charge the amount of such statement to such sheriff—and the sheriffs shall be bound to pay the same into the territorial treasury semi-annually when he pays other monies or taxes by him collected or received.

Sheriff to pay over to treasurer of the territory.

Taxes to be collected and paid in manner.

Sec. 10. *And be it further enacted*, That the taxes arising from all the objects of taxation herein before mentioned shall be

collected and paid into the territorial treasury as is provided in the acts to which this is a supplement for the payment of monies into the territorial treasury.

ner heretofore provided.

Sec. 11. *And be it further enacted*, That all the other objects and articles of taxation except lands in actual cultivation enumerated in acts to which this act is a supplement and herein before mentioned shall be and remain taxable as therein provided for county purposes.

What articles taxable for county purposes.

Sec. 12. *And be it further enacted*, That it shall be the duty of every person owning or claiming lands subject to be taxed as aforesaid to give a just and true account or list thereof under the same penalties as are now provided by the act regulating the fiscal concerns of the territory to the assessor or assessors in each county respectively at the same time when they take the list or assessment of other property—each tract or parcel of land shall be specially described as to the nature of the claim, the quantity in the tract, and the county and water course, if any there be, where the same is situated, by the claimant—and in case any person shall refuse or neglect to give in such account or list, it shall be the duty of the assessor to make a list thereof himself in the name of the claimant or owner from the best information he can acquire, and the land so listed by the assessor himself, shall be taxed double, which it shall be the duty of the assessor to specify in his general list—and it shall there-

Accounts of lands given to the assessors.

On default assessor to list them and tax them double.

upon be the duty of the sheriff or collector to collect and pay over the same as other taxes.

Non residents' lands.

Sec. 13. *And be it further enacted*, That all lands hereby made taxable, and owned or claimed by non residents shall be entered or listed by such non residents his, her or their agent with the auditor of public accounts for this territory on or before the first day of May next. And the auditor shall keep a book in which he shall carefully enter each and every tract or claim of land hereby made taxable and owned or claimed by non residents, stating the nature of the claim, the quantity, county, and water course where the same is situated, And it shall be the duty of the auditor in all cases where lands are owned or claimed by any non resident hereby made taxable and not listed or entered with him for taxation as aforesaid to list and enter the same himself from the best information he may possess, which it is hereby made his duty as far as practicable to acquire and the said auditor shall, on or before the first day of July in every year, forward to the sheriff or collector of each county in this territory a list of the lands owned or claimed by non residents situated in his county Whereupon the sheriff or collector shall be bound to receipt therefor to the auditor, and proceed to the collection of the tax due on all lands contained in said list, and pay the same over in the same manner,

at the same time and under the same regulations and penalties as are provided by the acts to which this is a supplement in the case of other taxes or monies by him collected for the territory.

Transfers of non resdents' lands

Sec. 14. *And be it further enacted*, That when any tract or parcel of land owned or claimed by any non resident and listed with the auditor shall be sold or transferred, it shall be the duty of the purchaser to *file* with said auditor on or before the day when he makes out his annual list to forward to the different sheriffs as aforesaid a duly certified copy of his or her deed or transfer, whereupon the auditor shall enter or list the same for taxation in the name of such purchaser. and no sale, exchange or transfer of any tract of land, contained in the auditors list shall, in any manner prevent or effect the collection of the taxes due thereon, at the time of such sale or transfer.

On default of payment of taxe and if there be no personal property lands to be sold.

Sec. 15. *And be it further enacted*, That in all cases where the sheriff or collector cannot find sufficient personal property whereon to levy and make distress for the payment of taxes according to the provisions of the sixteenth section of the 'act regulating the fiscal concerns of the territory' it shall and may be lawful for the sheriff or collector to sell at the court house door of of the county by public sale on the first monday in September annually so much of each tract of land chargeable for taxes as

Notice.

will be sufficient to pay the amount of taxes due thereon. And the said sheriff or collector shall, previous to such sale give notice thereof, at least thirty days by advertisement in some news paper printed in this territory or by advertising at the court house door, and six other, the most public places in the county, the time and place of sale, and the different tracts to be sold; and the said sheriff or collector shall deliver to the purchaser a certificate of the quantity of land sold, describing therein the tract which was chargeable with the taxes. And the part so sold shall be taken as nearly as may be in a square and shall adjoin on one or other of the out lines of the survey of such tract of land. And a designation of the part so sold shall be made by the sheriff or collector at the time of such sale.

Certificate of quantity.

How laid off.

Lands not sold for want of bidders.

Sec. 16 *And be it further enacted*, That when any tract of land offered for sale for the payment of the taxes shall not be sold for the want of bidders, and the said taxes thereon not being paid it shall be the duty of the sheriff or collector to forward to the auditor a list of such lands not sold as aforesaid, on oath, at the same time when he pays over monies or taxes on land by this act payable into the territorial treasury, for the amount of which said list the auditor shall give said sheriff credit in the settlement of his account. And it shall be the duty of the territorial auditor annually to issue an order to the sheriff or collector of the pro-

per county to proceed to ſell ſuch lands as have not been ſold for want of bidders, or ſuch part thereof as will pay the arrearages of taxes due thereon. And it ſhall be the duty of the ſheriff or collector at all times when he collects the taxes of the preſent year, to collect all arrearages of taxes due as aforeſaid, for which he ſhall receive the auditors order. And no ſheriff or collector ſhall either directly or indirectly be concerned or intereſted in the purchaſe of any tract of land ſold for the payment of taxes under the penalty of *fifty* dollars to be recovered by indictment. And the ſale and purchaſe in ſuch caſe is hereby alſo declared to be utterly null and void.

Sheriffs not to purchaſe lands ſold for taxes.

Sec. 17. *And be it further enacted*, That it ſhall be the duty of the ſheriffs or collectors on or before the firſt Monday in October annually to pay into the territorial treaſury the full amount of all taxes with which the ſaid ſheriff or collector is or may be charged with after deducting the amount of taxes on lands not ſold for want of bidders and eight per cent for his commiſſion on the amount of taxes ſo by him collected on land, any thing in this act as to the time of paying other monies into the territorial treaſury to the contrary notwithſtanding.

Sheriff to pay over land tax in October.

Sec 18. *And be it further enacted*, That the ſurveyor of the county on the receipt of the ſheriff or collector's certificate of land ſold for taxes, ſhall by himſelf or deputy proceed to ſurvey and lay off the quantity of

County ſurveyor to lay off lands ſold for taxes.

land agreeably to said certificate and charge the expence of making a survey and plat thereof to the purchaser or his assigns. And on the plat and certificate of survey being presented to the sheriff or collector or his successor in office it shall be his duty to convey the same to such purchaser or his assigns by deed in due form of law executed, which conveyance shall vest in the purchaser or his assigns all the right title and interest of the person in whose name it was so sold, to the part so sold, but the said sheriff or collector may nevertheless convey any lot or tract of land sold for taxes without having the same surveyed when the whole lot or tract is sold. *Provided*, That if any person or persons his, her or their lawful agent or attorney shall within twelve months from and after the day of such sale, pay or tender to the said purchaser, his, her or their legal heir or representative or lawful agent or attorney, the amount of such tax together with the costs of sale and survey and at the rate of fifty per cent interest per annum on the same, and likewise pay to the purchaser for all improvements that are made by said purchaser on said land at their just and real value, his, her or their lands shall therefrom be discharged and redeemed from such sale: *Provided however*, That nothing herein contained shall be considered in law as a bar to the right or equity of redemption which any infant, person *non compos mentis*, in captivity or beyond sea, may have in the land so sold. *And provided also*, That the taxes on said land

Sheriff to give deed.

How such lands may be redeemed.

together with interest thereon and an equitable compensation for improvements made on such land (taking into view the rent that might arise therefrom) be tendered to the purchaser or his assigns within one year after such disability be removed.

Sheriff's bond for collection of taxes.

Sec. 19 *And be it further enacted*, That the sheriff or collector shall annually before he proceeds to the collection of taxes give bond with at least two good and sufficient freeholders as security to be approved of by the court of common pleas in the penal sum of five thousand dollars, conditioned for the faithful collection and payment of all taxes with which he may be chargeable according to law. Which said bond shall be given to the Governor and to his successors in office for the use of the territory, and shall be filed in the clerk's office of said court, and be by the clerk recorded and the sheriffs shall be allowed the same compensation for collecting and paying over all taxes for county purposes that is allowed him for collecting and paying money into the territorial treasury and no more.

Court to make lists of the assessors returns.

To one of which the warrant for collection shall be attached.

Sec. 20, *And be it further enacted*, That it shall be the duty of the judges of the court of common pleas for each county at the time they receive the returns from the assessors of each county to make out three general lists of the assessors returns for the territorial tax, one of which they shall attach their warrant to, and give

the sheriff or collector, one they shall keep or *file* with the clerk of the court of common pleas, and the third they shall forward to the territorial auditor to be by him kept as evidence against said sheriff or collector, and to the copy to be thus returned to the territorial auditor, the sheriff or collector shall attach his acknowledgment in writing stating that the list then by him signed is a copy of the list of the taxes he has received for collection on the part of the territory.

Sec. 21. *And be it further enacted*, That so much of any law of this territory as may be inconsistent with or repugnant to the provisions of this act shall be and the same are hereby repealed.

This act shall take effect and be in force from and after the *first* day of April next.

GEO. BULLITT,
Speaker of the House of Representatives.
S. HAMMOND,
President of the Legislative Council.
APROVED JANUARY 19, 1814.
WILLIAM CLARK,
Governor of the Missouri Territory.

AN ACT

In addition to the act supplementary to the several acts concerning the fiscal concerns of this territory.

BE *it enacted by the General Assembly for the territory of Missouri*, That where by the seventh section of the act to which

this is a supplement it is made the duty of the person applying for a licence to file with the clerk of the court a copy of his invoice of equipment under oath, the said copy of the invoice to be so filed, shall have been in all instances before presented and filed with the clerk aforesaid, approved of by the Governor of the territory or such other person as the President of the United States, may authorise to grant licences within this territory.

This act shall take effect and be in force from and after the first day of April next.

GEO. BULLITT,
Speaker of the House of Representatives.
JAMES MAXWELL,
President of the Legislative Council.
APPROVED, JANUARY 19, 1814.
WILLIAM CLARK,
Governor of the Missouri Territory.

A BILL

Entitled an act fixing the times and places of holding the superior and inferior courts in this territory and for other purposes.

BE *it enacted by the General Assembly of the territory of Missouri*, That the times and places for holding the superior court in this territory, in each and every year shall be as follows to wit, in the county of St. Charles, at the town of St. Charles, on the second Monday in April, and the

Places and times of holding the superior court,

second Monday in September; in the county of St. Louis, in the town of St Louis; on the third Monday in April, and the third Monday in September; in the county of Washington, at the place fixed upon for holding the court of common pleas for the said county on the fourth Monday in April, and the fourth Monday in September; in the county of St. Genevieve at the town of St. Genevieve on the first Mondays in May and October; in the county of Cape Girardeau, at the place fixed upon for holding the court of common pleas in said county, on the second Mondays in May and October; in the county of New Madrid at the place fixed upon for holding the court of common pleas for said county on the third Mondays in May and October.

Clerks to be appointed in each county.

Sec. 2. *And be it further enacted*, That it shall be the duty of the judges of the said superior courts on the first day of their first term to be holden in the several counties agreeable to the provisions of this act or sooner if the said judges think proper, to appoint in each county wherein the superior court is to be held a suitable person as clerk who shall be commissioned by the governor, and shall keep his office at the place where the said court is held in each county, and shall be qualified in the same manner and give the same bond and security as the present clerk of the superior court of the territory is required to do, whose duty it shall be to keep the records and proceedings of said

Qualifications.

court in his respective county, and perform all the duties of clerk of said court within such county agreeable to law. And the person appointed as aforesaid shall within six months from his appointment or sooner if possible, under the direction of the judges of the said court procure a public seal, which seal shall be styled the seal of the superior court of the territory of Missouri for the county of (naming the county) and all writs or processes issuing out of said court in any county shall be under the seal of the said court for the proper county. *Provided* That until such seal be procured, the private seal of the clerk in each county shall be taken and considered the seal of said court for such county. And the expences necessarily accruing in procuring such seals with a screw to each shall be paid out of the county treasuries respectively on a certificate from one of the judges of said court that such seals and screws were procured according to the directions of this act.

Seal for the several counties.

Private seals.

Sec. 3. *And be it further enacted*, That it shall be the duty of the present clerk of the superior court of this territory on or before the first term of the superior court to be holden for the respective counties to make a complete transcript of the minutes and proceedings had therein of every cause as far as such cause has been proceeded in except those in which final judgment or decree has been rendered, and shall send the same together with all other papers be-

Copies to be made of the proceedings in each undecided case and sent to the counties where defendants reside.

longing to such cases and which are not entered on the minutes of said court to the respective counties where the defendant or defendant reside or where the original process was executed and if there be more than one defendant then to the county where such process was first executed, to appear by the sheriffs return on such process. And all such papers shall be conveyed by the said clerk making out such transcript to the clerks of the superior court for the respective counties as aforesaid, which transcript and papers so made out and deposited shall be considered a record of the superior court of the territory for the county to which it properly belongs, for which he shall be allowed ten cents for each hundred words contained in such transcript to be taxed as other costs, and paid by the party who shall be cast or lose the case. And all such causes shall be tried and determined in the superior court for the proper county except in the county of Arkansas; and the transcript of the minutes and proceedings had in each case, and papers to be made out, sent as aforesaid, when the same properly belongs to the county of Arkansas shall be sent and deposited with the clerk of the superior court for the county of Washington and shall have the same proceedings in the said court for the last aforesaid county as the causes properly belonging thereto. And if there shall not have been a clerk appointed by the said superior court for the respective counties before the time appointed by this

To be considered as records of the superior court.

Expence of copies to be taxed as costs.

Superior court for Arkansas to be held in Washington.

act for holding the first term of the superior court for the respective counties, the aforesaid transcripts, records and papers shall be deposited and left with the respective clerks of the courts of common pleas for the respective counties, who are hereby directed to receive and safely keep the same and to deliver the same over to the clerk of the superior court whenever requested, whole, safe and undefaced under the penalty of two thousand dollars to be recovered by action of debt by any person who shall sue for the same. And all such causes shall have day in the superior court in the proper county in the same manner they would have been entitled to, in the superior court of this territory, if this act had not been passed, subject however to the power and authority of the said superior court given by this act. And it shall be the duty of the clerks of the superior court for their respective counties to file such papers and record the aforesaid transcripts in a book well bound for that purpose, which entries shall be inspected by the judges of the said court, and when correct and signed by the presiding judge shall be considered the record of the said court for the county to which they belong.

Present clerk's duties, before the new appointments.

Sec. 4. *And be it further enacted*, That the present clerk of the superior court of this territory shall continue to be the clerk of the said court, unless sooner removed by the same, until the first day of June next, and shall continue to be the clerk of the su-

perior court of this territory for the county of St. Genevieve until another is appointed by the superior court for said county and that from and after the taking effect of this act, and until a clerk shall be appointed in each county the present clerk of the superior or general court shall have power to issue writs and processes under the seal of his court returnable to any such county in which there may not have been appointed a clerk as aforesaid.

What records and papers to remain at St. Genevieve.

Sec 5 *And be it further enacted*, That all the records and papers belonging to the office of the general or superior court of this territory and which are not otherwise directed to be disposed of by this act shall be and remain in the office of the superior court of the territory for the county of St. Genevieve and shall be considered as records of said court.

Test of writs.

Sec, 6. *And be it further enacted*, That all writs and processes issuing from or returnable in the superior court shall bear test in the name of one of the judges of the superior court or of the clerk of said court of the county in which the same shall have been issued and be made returnable to the said court to be holden in said county and shall be made returnable as follows to wit, before the judges of the superior court of the territory of Missouri at their next term to be holden in the county (naming the county, place and time when such court is to be holden) and shall be under

the seal of the said court as is heretofore provided and signed by the clerk thereof. *Provided however* That it shall and may be lawful for any attorney at law authorised to practice in this territory to procure blank processes from the respective clerks without first filing a declaration in said office and cause the same be filled up and issue according to law.

Attorne may procure blank proces ses.

Sec. 7 *And be it further enacted*, That no person being an inhabitant of this territory shall be arrested or held to bail in any civil action, except it be in the county in which he resides; nor shall any person as aforesaid be summoned for trial in any county than that in which he is an inhabitant unless he shall be found in the county where the plaintiff resides at the time of serving such process except the inhabitants of the county of Arkansas. And all persons arrested or summoned for trial in the county of Arkansas in matters cognizable in the superior court shall be brought to trial before the said court in the county of Washington at the place of holding the superior court therein.

Sec. 8 *And be it further enacted*, That if the said superior court shall fail to be held at the times respectively appointed for holding the same, the proceedings shall not be discontinued; but the sheriff or clerk of the county wherein such accident shall happen shall have power to adjourn said court from day to day not exceeding *five* days

until said court shall, meet. And in case said court shall not meet in that time the said sheriff or clerk as aforesaid shall adjourn the same to the next term of said court to which time all causes then depending shall be continued;

Sec. 9. *And be it further enacted*, That the times and places for holding the several courts of common pleas for the several counties shall be as follows to wit, in the county of St Charles at the town St Charles on the third Mondays in June and October and on the fourth Monday in January; in the county of St Louis at the town of St. Louis on the fourth Mondays in June and October and on the third Monday in February; in the county of St. Genevieve in the town of St. Genevieve on the second Mondays in July and November and the second Monday in March; in the county of Washington at such place as now is or hereafter may be appointed by the commissioners on the first Mondays in July and November and the first Monday in March; in the county of Cape Girardeau at such place as now is or hereafter may be appointed by the commissioners on the third Mondays in July and November and the third Monday in March; in the county of New Madrid at such place as now is or hereafter may be appointed by the commissioners on the fourth Mondays in July and November and the fourth Monday in March; in the county of Arkansas at the village of Arkansas on the second Monday in August, the first

Monday in December, and the third Monday in March.

Sec. 10. *And be it further enacted*, That in all cases punishable with death the trial shall be had in the county where the offence shall have been committed unless the offence shall have been committed on a county line, then, and in that case, in either county divided by such line.

Sec. 11. *And be it further enacted*, That the said superior court in the respective counties shall have chancery jurisdiction in all such cases that they might or could have had before the passage of this act.

Sec. 12. *Be it further enacted*. That so much of the laws of this territory as are contrary to the provisions of this act are hereby repealed.

Sec. 13. *Be it further enacted*, That when any capital offence shall be committed in the county of Arkansas it shall be the duty of the sheriff or other officer having charge of such person to convey such offenders for trial to the county of Washington at the place of holding court therein. And such offender shall have trial in said county as if the offence had been committed in said county with this exception that it shall be lawful for said court to issue their writs to the sheriff or other officer of the county of Arkansas to summon at least twentyfour good and lawful men of the county to appear before them at a time and place to be therein

named, and if there should be any deficiency of such jurors by challenge or otherwise the court shall direct such deficiency to be filled up by the bystanders.

Sec. 14. This act shall take effect and be in force from and after the first day of June next.

GEO. BULLITT,
Speaker of the House of Representatives.
S. HAMMOND,
President of the Legislative Council.
APROVED, JANUARY 19, 1814.
WILLIAM CLARK,
Governor of the Missouri Territory.

A RESOLUTION,

To provide for the distribution of the laws of the territory of Missouri.

RESOLVED *by the General Assembly of the territory of Missouri*, That as soon as the acts passed at the last session of the general assembly of this territory begun and held in the town of St. Louis on the first Monday of July one thousand eight hundred and thirteen, and those passed at the present session shall be printed, the Governor shall cause a sufficient number of said laws (allowing one copy for each person hereinafter named in each county) to be deposited in the offices of the clerks of the respective counties, and it is hereby made the duty of said clerks to distribute such laws on application of those entitled to co-

pies in manner herein after provided to wit, To the governor and secretary each one copy; to the judges of the general or superior court, to the judges or justices of the courts of common pleas, to the clerks of the general or superior court and clerks of the courts of common pleas, to the sheriff of every county, to every justice of the peace, to the Attorney general, to the territoral auditor, to the territorial treasurer, to the treasurer of each county, to the coroner of each county, to every member of the general assembly, each one copy and to the clerks of the legislative council and house of representatives each five copies, for the use of their respective houses, *Provided*, it shall be the duty of every coroner, officers both civil and military on his or their going out of office to deliver the copy of the law with which he shall have been furnished in pursuance of this act to his successor in office. *And provided also* That it shall be the duty of the Governor of the territory to have as many copies of the militia law struck off in pamphlets as he shall deem necessary to be distributed amongst the several militia officers of the territory seperate from the code of laws to be printed, and he is hereby authorised to distribute them in such manner as he shall deem best for the information of the several officers throughout the territory.

Resolved also, That all expenditures incurred for the conveyance of such laws to the offices of the clerks of the different

counties shall be paid out of the territorial treasury, and the governor shall issue his order to the territorial auditor for the same, who on receiving such order shall issue his warrant, directing the treasurer of the territory to pay the amount of such warrant to the person or to his order in whose favor it is drawn.

GEO. BULLITT,
Speaker of the House of Representatives.
S. HAMMOND,
President of the Legislative Council,
APPROVED. JANUARY 17, 1814.
WILLIAM CLARK,

TERRITORY OF MISSOURI,

SECRETARY'S OFFICE, }
April 25th, 1814. }

I CERTIFY that the foregoing Acts of the Legislature, commencing with "An act supplementary to the act establishing courts of common pleas and for other purposes." ending with "A resolution to provide for the distribution of the laws of the territory of Missouri," and contained in 108 Octavo pages, have been compared and found literally conformable with the originals preserved in my office.

FREDERICK BATES.

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